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EXHIBIT 1

Bireley, Charles (Video) 10/11/2006 9:15:00 AM

<p>1 IN THE UNITED STATES DISTRICT COURT 2 IN AND FOR THE DISTRICT OF DELAWARE 3 4 MONA DOBRICH and MARCO DOBRICH, individually and 5 As parents and next friend of ALEXANDER DOBRICH, 6 SAMANTHA DOBRICH, JANE DOE and JOHN DOE, 7 individually and as parents and next friend of 8 JORDAN DOE and JAMIE DOE, 9 Plaintiffs 10 vs. CIVIL ACTION 11 NO. 15-120 12 INDIAN RIVER SCHOOL DISTRICT, ET AL., 13 Defendants 14 15 DEPOSITION OF CHARLES M. BIRELEY, taken 16 pursuant to notice at the Indian River School 17 District, 31 Hosier Street, Selbyville, Delaware, 18 beginning at 9:15 a.m. on October 11, 2006 before 19 David A. Sroka, Registered Professional Reporter and 20 Notary Public. 21 APPEARANCES: 22 THOMAS ALLINGHAM, ESQUIRE 23 RICHARD HORVATH, ESQUIRE 24 BRIAN LENHARD, ESQUIRE P.O. Box 636 Wilmington, Delaware 19899-0636 For the Plaintiffs WILCOX & FETZER 1330 King Street - Wilmington, DE 19801 (302) 655-0477 www.wilfet.com</p>	<p>1 MS. DUPHILY: This is the 2 videotape deposition of Mr. Charles 3 Bireley, taken by the Plaintiffs in the 4 matter of Dobrich, et.al, versus Indian 5 River School District, et.al, case 6 number is 15-120. 7 The deposition is being held at 31 8 Hosier Boulevard, Selbyville, Delaware. We 9 are going on the record on October 11, 2006 10 at approximately 9:15 a.m.. The court 11 reporter is Dave Sroka from the firm of 12 Wilcox & Fetzer. I am Lindsey duPhilly, 13 videotape specialist from Discovery Video 14 Services. 15 Now, the counsel will introduce 16 themselves and then the court reporter will 17 swear in the witness. 18 MR. ALLINGHAM: Tom Allingham 19 representing the Plaintiffs and with me is 20 Rick Horvath and Brian Lenhard. 21 MR. GOSSELIN: Jason Gosselin 22 representing the Indian River School 23 District, the school board and the other 24 defendants.</p>
<p>1 2 3 4 JASON P. GOSSELIN, ESQUIRE 5 Drinker Biddle & Reath LLP 6 Philadelphia, Pennsylvania 19103-6996 7 For the Defendants 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p>1 CHARLES BIRELEY, 2 The Witness herein, called for examination by 3 the Plaintiffs, having been duly sworn to tell the 4 truth, the whole truth, and nothing but the truth, 5 was examined and testified as follows: 6 examination by him to. 7 EXAMINATION BY MR. ALLINGHAM: 8 Q. Good morning, Mr. Bireley, my name is Tom 9 Allingham, I represent the Plaintiffs. I'm going to 10 ask you questions today that are relevant in our 11 view to the School Board prayer issue in this 12 litigation. 13 We have, as your lawyer has probably told 14 you separated, or the judge has asked us to separate 15 the School Board prior issue from the several other 16 issues in the case, and so the deposition today will 17 be focused on the School Board prayer issue. 18 A couple pieces of introduction. I'm going 19 to refer to the final board policy on School Board 20 prayer, a copy of which I'll give you later and we 21 will talk about it, as the School Board Prayer 22 Policy. Do you understand what I mean when I say 23 that? 24 A. Yes.</p>

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<p>1 followed.</p> <p>2 Q. You answered my question about your opinion</p> <p>3 about the School Board being a legislative board by</p> <p>4 comparing the School Board to the General Assembly,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. Let me ask a couple of more questions. The</p> <p>8 General Assembly doesn't approve field trips, does</p> <p>9 it?</p> <p>10 MR. GOSSELIN: Objection.</p> <p>11 A. No.</p> <p>12 Q. More generally in our -- in the structure</p> <p>13 of our government, is the General Assembly</p> <p>14 responsible for enforcing and administering the</p> <p>15 policies that it sets, the laws that it passes?</p> <p>16 MR. GOSSELIN: Objection.</p> <p>17 A. Ask me the question again please, if you</p> <p>18 would?</p> <p>19 Q. Sure. In our government in the State of</p> <p>20 Delaware is the General Assembly responsible for the</p> <p>21 administration and enforcement of the statutes and</p> <p>22 laws that it passes?</p> <p>23 MR. GOSSELIN: Objection.</p> <p>24 A. Not that I'm aware of.</p> <p style="text-align: center;">21</p>	<p>1 Q. Do you know what the process would be for</p> <p>2 disciplining a School Board who violated a School</p> <p>3 Board policy?</p> <p>4 A. Never had the issue to do it, but I would</p> <p>5 assume that we would come before the rest of the</p> <p>6 Board members and we would discuss it.</p> <p>7 Q. Fair enough. So, you are not aware of a</p> <p>8 specific policy that sets that process but that as</p> <p>9 for example as Board president is what you</p> <p>10 anticipate what would happen?</p> <p>11 A. Yes.</p> <p>12 Q. I asked you some general questions about</p> <p>13 student attendance at school Board meetings and I</p> <p>14 want to ask some more specific questions. The</p> <p>15 minutes of the meetings reflect a presentation of</p> <p>16 the colors at virtually every meeting, is that</p> <p>17 consistent with your recollection?</p> <p>18 A. Yes, except during the summer months.</p> <p>19 Q. Summer months being when the kids are out</p> <p>20 of school?</p> <p>21 A. Yes.</p> <p>22 Q. So during the academic school year</p> <p>23 September to June you would have presentation of</p> <p>24 colors?</p> <p style="text-align: center;">23</p>
<p>1 Q. You on the other hand as a School Board</p> <p>2 mention are responsible for the enforcement and</p> <p>3 administration of the policies that you pass, isn't</p> <p>4 that right?</p> <p>5 A. Yes.</p> <p>6 Q. Let me ask you this, on a percentage basis</p> <p>7 over the 30 years of your service as a Board member</p> <p>8 what percentage of your time at public meetings has</p> <p>9 been spent in the consideration of policies and what</p> <p>10 percentage of time has been spent on other areas of</p> <p>11 responsibility?</p> <p>12 A. We have a committee that gives us a report</p> <p>13 each Board meeting on policy. If there are some to</p> <p>14 adopt I'd say maybe just a range of 15 to 20, 25</p> <p>15 minutes a meeting.</p> <p>16 Q. On policy?</p> <p>17 A. Yes.</p> <p>18 Q. And the remainder on non-policy issues?</p> <p>19 A. Yes.</p> <p>20 Q. In the course of your tenure as a School</p> <p>21 Board member are you aware of any instance in which</p> <p>22 a School Board member has been accused of violating</p> <p>23 or failing to comply with a Board policy?</p> <p>24 A. Not that I'm aware of.</p> <p style="text-align: center;">22</p>	<p>1 A. Yes.</p> <p>2 Q. And the colors are presented by the student</p> <p>3 ROTC groups from the two high schools in the</p> <p>4 district?</p> <p>5 A. Yes.</p> <p>6 Q. Who invites them to do that or do they just</p> <p>7 know that they are suppose to show up?</p> <p>8 A. I believe it's the building principal.</p> <p>9 Q. Building principal of the school in which</p> <p>10 you're meeting?</p> <p>11 A. Yes.</p> <p>12 Q. So, if you were at during the construction</p> <p>13 projects a couple of years ago, if you were at the</p> <p>14 elementary school the principal of the elementary</p> <p>15 school would invites the ROTC?</p> <p>16 A. No.</p> <p>17 Q. I misunderstood you then, who would invite</p> <p>18 them?</p> <p>19 A. Well, right how it's because we have two</p> <p>20 high schools and that's where the ROTC and it would</p> <p>21 be the principals of the two high schools.</p> <p>22 Q. So, if you are meeting at Indian River High</p> <p>23 School the Indian River principal remind the ROTC</p> <p>24 group to show up for the Board meeting?</p> <p style="text-align: center;">24</p>

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<p>1 A. Yes.</p> <p>2 Q. And similarly at the other high school?</p> <p>3 A. Yes.</p> <p>4 Q. Sussex Central, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And who instructs the principals to tell</p> <p>7 the ROTC to show up at the meetings? How do the</p> <p>8 principals find out that they should remind the</p> <p>9 ROTC?</p> <p>10 A. To the best of my knowledge ever since the</p> <p>11 ROTC has been there that's been the process.</p> <p>12 Q. Do you know how long the ROTC has been in</p> <p>13 place?</p> <p>14 A. Probably around five years.</p> <p>15 Q. 2000 or thereabouts?</p> <p>16 A. Yes. I'm not positive but it's somewhere</p> <p>17 around there.</p> <p>18 Q. We talked about students attending the</p> <p>19 meetings for the receipt of awards or recognition,</p> <p>20 who invites them to those meeting?</p> <p>21 A. The building principal.</p> <p>22 Q. The building principal in the school in</p> <p>23 which the meeting is being held?</p> <p>24 A. Well, normally they try to do that to keep</p> <p style="text-align: center;">25</p>	<p>1 to invite the students to come to the meeting.</p> <p>2 Q. Understood. So, in effect the principal</p> <p>3 tells the central office here are my kids who are</p> <p>4 going to be at the meeting, I have invited them?</p> <p>5 A. Pretty much, yes.</p> <p>6 Q. And is that process a process that was set</p> <p>7 up by the Board at some point in the mid '90s?</p> <p>8 A. It was done by the superintendent.</p> <p>9 Q. Who is the superintendent?</p> <p>10 A. Lois Hobbs, the previous superintendent.</p> <p>11 Q. Let me explore that a little bit. Did Miss</p> <p>12 Hobbs present to the Board the idea that it would be</p> <p>13 good for the Board to recognize achievement of</p> <p>14 students in the schools?</p> <p>15 A. Yes.</p> <p>16 Q. Was there any dissent from that?</p> <p>17 A. Not that I'm aware of.</p> <p>18 Q. Everybody thought it was a good idea?</p> <p>19 A. Yes.</p> <p>20 Q. I understand that recently there has been</p> <p>21 some rumblings that maybe it's gotten out of hand,</p> <p>22 is that correct?</p> <p>23 A. That's it's gotten out of hand.</p> <p>24 Q. That it's taking too long, the awards</p> <p style="text-align: center;">27</p>
<p>1 down on the travel. But, for example if the meeting</p> <p>2 was going to be held at Indian River, this next</p> <p>3 meeting.</p> <p>4 Q. Yup.</p> <p>5 A. The principal would submit a letter to</p> <p>6 central office of recent awards that has been</p> <p>7 generated by his students and they would be invited</p> <p>8 to come to the meeting.</p> <p>9 Q. So, it would be the building principal</p> <p>10 sends a some kind of memo to the central office</p> <p>11 saying would you please recognize my students who</p> <p>12 have done something notable in the last period and</p> <p>13 then the central office would invite the students?</p> <p>14 A. As I understand it.</p> <p>15 Q. And how does the central office invite the</p> <p>16 student, by a letter?</p> <p>17 A. Well, can we go back a minute?</p> <p>18 Q. Yup.</p> <p>19 A. The principal does all of that. The</p> <p>20 principal send a notice to central office was these</p> <p>21 are the ones that, you know, deserve that.</p> <p>22 Q. Got you.</p> <p>23 A. But to the best of my knowledge the</p> <p>24 principal is the one that also sends out the notices</p> <p style="text-align: center;">26</p>	<p>1 portion of the meeting?</p> <p>2 A. There's been some discussion, yes.</p> <p>3 Q. Is there some sense that maybe that the</p> <p>4 awards portion of the Board meeting will be</p> <p>5 eliminated?</p> <p>6 A. I can't answer that, I don't know.</p> <p>7 Q. Has there been any discussion of that</p> <p>8 possibility?</p> <p>9 A. Not on the Board level, no.</p> <p>10 Q. Has there been discussion of that among</p> <p>11 Board members outside of the Board meeting?</p> <p>12 A. Yes.</p> <p>13 Q. Who has had such discussions according to</p> <p>14 your knowledge?</p> <p>15 A. I've discussed it with a certain few.</p> <p>16 Q. Which ones?</p> <p>17 A. I know that I did with Dr. Hattier,</p> <p>18 Mr. Helms, Mrs. Bunting, Mrs. Mitchell.</p> <p>19 Q. When did the first of those discussions</p> <p>20 occur roughly speaking?</p> <p>21 A. Probably within the last six months.</p> <p>22 Q. And who initiated discussion you or the</p> <p>23 other side of the conversation?</p> <p>24 A. I did.</p> <p style="text-align: center;">28</p>

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<p>1 Q. So, to the best of your recollection at 2 every Board meeting during your service as a Board 3 member the School Board opened the meeting with a 4 prayer? 5 A. To the best of my knowledge. 6 Q. Who decided, and this is all prior to the 7 more recent adoption of the School Board Prayer 8 Policy, who decided which Board member would lead 9 the group in prayer or offer a prayer? 10 A. The Board president. 11 Q. How was it decided which School Board 12 member would open the meeting with a prayer? 13 A. The Board president just asked someone, I 14 don't know how. 15 Q. Were there any restriction of any kind on 16 what sort of prayer a School Board member could 17 over? 18 A. Not that I'm aware of. 19 Q. Prior to the adoption of Policy BDA.1, 20 which is the School Board Prayer Policy in October 21 of 2004, was there any policy that governed the 22 offering of prayer at School Board meetings? 23 A. Not that I'm aware of. 24 Q. Were you ever asked to lead the Board in</p> <p style="text-align: center;">57</p>	<p>1 who would be invited to offer the prayer? 2 A. It was usually done by a small portion of 3 the group of ten. 4 Q. And did they have any common 5 characteristics, the small portion? 6 A. Not that I'm aware of. 7 Q. Do you know how that small group, smaller 8 group was identified by the Board? 9 A. To my knowledge the Board president would 10 call on someone at the Board meeting to say the 11 prayer, that's all I know. 12 Q. But you told me that a small group of the 13 Board was asked to offer the prayer, a group that 14 you were not a member of, do you know how that group 15 was identified or picked or selected to be the ones 16 who would offer the prayer? 17 A. No. 18 Q. How small a group, two, three? 19 A. Three, four, somewhere in that 20 neighborhood. 21 Q. Was a Jewish Board member ever included in 22 that group? 23 A. I don't recall us ever having a Jewish 24 Board member.</p> <p style="text-align: center;">59</p>
<p>1 prayer or offer a prayer at the beginning of School 2 Board meetings prior to the adoption of the School 3 Board policy? 4 A. No. 5 Q. So, 1974 to 2004 is the period of time 6 during which you were a School Board member with a 7 three year hiatus, so if my arithmetic is right 8 that's 27 years of service prior to the adoption of 9 Board Policy BDA.1, and you were never asked to 10 offer a prayer at a School Board meeting? 11 A. That's correct. 12 Q. Do you know why? 13 A. No. 14 Q. Did you ever tell any Board president that 15 you were not interested in offering a prayer at the 16 School Board meeting? 17 A. No. 18 Q. Again, if my arithmetic is correct, that's 19 well over 300 School Board meetings at which 20 somebody offered a prayer, but you were not invited 21 to do so, did that strike you as off or unusual? 22 A. No. 23 Q. Did you perceive any pattern in the Board 24 president's practice in the selection of the person</p> <p style="text-align: center;">58</p>	<p>1 Q. Was a Muslim Board member ever included in 2 that group? 3 A. I don't call us having a Muslim Board 4 member. 5 Q. Or a Buddhist? 6 A. Same answer. 7 Q. A non-Christian Board member ever included 8 in that group? 9 A. I don't recall us ever having that type of 10 Board member. 11 Q. Would you characterize the members of that 12 smaller group as being particularly religious 13 amongst their peers? 14 MR. GOSSELIN: Objection. 15 A. Do I answer? 16 Q. Yes, sir. 17 A. Can you please ask that question again? 18 Q. Was it -- did you perceive that the 19 criteria for selection of this smaller group was 20 that these were folks who were particularly 21 religious? 22 MR. GOSSELIN: Objection. 23 A. No. 24 Q. Let me just ask the broad question, is it</p> <p style="text-align: center;">60</p>

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1 given, it reflects, "During the discussion of this
2 issue several Board members expressed that their
3 constituents do not want the Board to change its
4 practice of opening the meeting with a prayer. It
5 was not felt that the decision could be made this
6 evening regarding whether or not to change our past
7 practice."

8 Do you recall that during that lengthy
9 meeting about prayer issues with Mr. Griffin in
10 attendance several board members expressed the view
11 that their constituents did not want the Board to
12 change its practice of opening the meetings with a
13 prayer?

14 A. Yes.

15 Q. Can you identify for them those Board
16 members who expressed that view?

17 A. Not really, but I know -- I mean I would be
18 afraid to tell you any particular names because I
19 would miss one or something like that, but I know
20 that it was discussed.

21 Q. Did you express the view that your
22 constituents did not want the Board to change its
23 practice?

24 A. Yes.

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1 Q. Okay. When you spoke to your fellow Board
2 members in executive session did you say my
3 constituents are in favor of continuing the
4 practice, or did you say the constituents of mine
5 that I've spoken to are in favor of continuing the
6 practice?

7 A. I don't remember how I said that.

8 Q. You see the distinction that I'm drawing?

9 A. Yes, I do.

10 Q. How many constituents do you have in your
11 district would you suppose?

12 A. Three, four, 5000.

13 Q. So, you said I'm sorry, three to 5000?

14 A. Three, four, 5000, somewhere in that
15 neighborhood, I guess.

16 Q. At the time of this meeting you estimate
17 that you had spoke to ten or 15 of them?

18 A. Probably no more than that.

19 Q. Did you have any concerns that that was not
20 a representative sampling of your constituency?

21 A. The Only I can say is I had no one that
22 called me and said that it should be anything other
23 than that.

24 Q. And would you expect that people would have

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1 Q. How did you form the view that your
2 constituents did not want the Board on change its
3 practice?

4 A. Based on feedback that I had received from
5 the community members.

6 Q. How did you get that feedback?

7 A. Well, either by them calling me on the
8 telephone or, you know, seeing them in the public,
9 something like that.

10 Q. When did you first start getting comments
11 from the public, your constituents about this issue?

12 A. After the graduation ceremony there when it
13 first hit the newspaper.

14 Q. And you began getting calls from your
15 constituents?

16 A. Yes.

17 Q. You also had people come up to you on the
18 street in effect and say we hope you will continue
19 the Board prayer?

20 A. Yes.

21 Q. How many constituents would you say you had
22 talked to by the time of the August 23 executive
23 session?

24 A. Just, I guess ten or 15.

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1 any concern about expressing the view that the Board
2 should not open its meetings with a prayer?

3 A. Please say that again.

4 Q. Would there be any reason why one of your
5 constituencies might be afraid to call you and, you
6 know, you really ought to jettison this School Board
7 prayer?

8 A. That's possible.

9 Q. And an example of why they might be afraid
10 occurred the very next day at the big Board meeting,
11 is that right?

12 A. Yes.

13 MR. GOSSELIN: Objection, go
14 ahead.

15 Q. Isn't that correct?

16 A. Yes, that's possible, yes.

17 Q. Because what happened at the big Board
18 meeting was that many comments were made that were
19 intended to be intimidating, isn't that right?

20 MR. GOSSELIN: Objection.

21 Q. During the public comment, not from the
22 Board members, but during the public commentary?

23 MR. GOSSELIN: Objection.

24 A. I'm confused. He says that --

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EXHIBIT 2

Bunting, Nina Lou (Video) 10/13/2006 9:07:00 AM

<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF DELAWARE 3 4 MONA DOBRICH and MARCO DOBRICH, Individually And as parents and next friend of ALEXANDER 5 DOBRICH, SAMANTHA DOBRICH, JANE DOE and JOHN DOE, individually and as parents and next friend 6 of JORDAN DOE and JAMIE DOE, 7 Plaintiffs 8 vs. Civil Action Case No. 15-120 9 10 INDIAN RIVER SCHOOL DISTRICT, ET AL., 11 Defendants 12 13 DEPOSITION OF NINA LOU BUNTING, taken pursuant to notice at the Indian River School District, 31 Hosier Street, Selbyville, Delaware, 14 beginning at 9:07 a.m. on October 13, 2006 before David A. Sroka, Registered Professional Reporter and 15 Notary Public. 16 17 APPEARANCES: 18 THOMAS ALLINGHAM, ESQ. RICHARD HORVATH BRIAN LENHARD 19 P.O. Box 636 Wilmington, Delaware 19899-0636 For the Plaintiffs 20 JARROD D. SHAW, ESQ. Drinker Biddle & Reath, LLP 21 One Logan Square Philadelphia, Pennsylvania 19103-6996 22 For the Defendants 23 24</p>	<p>3 1 The Witness herein, called for examination by 2 the Plaintiffs, having been duly sworn to tell the 3 truth, the whole truth, and nothing but the truth, 4 was examined and testified as follows: 5 EXAMINATION BY MR. ALLINGHAM: 6 Q. Did you attend the August 24, 2004 Board 7 meeting? 8 A. August 24, 2004 Board meeting, are you 9 referring to the one where the public, a lot of 10 people from the public came? 11 Q. Hundreds of people? 12 A. Okay, yes, I did. 13 Q. Did anything occur at that meeting that was 14 disturbing to you personally? 15 A. No. 16 Q. I want to show you a clip of the video from 17 that meeting? 18 A. Okay. 19 Q. This is a portion from the public comment 20 section of the meeting. 21 A. Okay. 22 (AT THIS POINT IN TIME A TAPE WAS PLAYED) 23 Q. Were you distracted when your telephone 24 rang during that clip? Would you like me to play it</p>
<p>2 1 MS. DUPHILY: This is the 2 videotape deposition of Ms. Nina Lou 3 Bunting taken by the Plaintiff in the 4 matter of Dobrich, et al. versus Indian 5 River School District, et al., case number 6 15-120. We are going on the record at 31 7 Hosier Boulevard, Selbyville, Delaware 8 on October 12, 2006 at approximately 12:55 9 p.m.. 10 The court reporter is Dave Sroka 11 from the firm of Wilcox & Fetzer, 12 Wilmington, Delaware. My name is 13 Lindsay duPhily and I'm the videotape 14 specialist of Discovery Video Services. 15 Counsel will now introduce 16 themselves and then the court reporter 17 will swear in the witness. 18 MR. ALLINGHAM: I'm Tom Allingham 19 I represent the Plaintiffs in this 20 case, and with me are Richard Horvath and 21 Brian Lenhard. 22 MR. SHAW: I'm Jarrod Shaw and I 23 represent the defendants in this action. 24 NINA LOU BUNTING,</p>	<p>4 1 again for you? 2 A. No, I don't think I was distracted. I may 3 have been momentarily. 4 Q. Were you present when -- who was speaking 5 during that public comment section? 6 A. Mr. Harold Short. 7 Q. Harold Johnson? 8 A. Harold Johnson, okay. I don't know him 9 that well. I knew it was Harold somebody. 10 Q. Were you present when he made that 11 statement? 12 A. Yes, I was. 13 Q. Did you hear him say that the good Lord has 14 proven that there's a higher power above our Supreme 15 Court? 16 A. I guess I heard him say it. I didn't hang 17 on every word. 18 Q. Did you hear him say that was proven when 19 the last I heard Madelyn Murray-O'Hare disappeared 20 never to be seen again? 21 A. Well, I heard it just now, do I remember -- 22 Q. That's the first time that you heard it? 23 A. I'm sure I heard it that night, but I 24 didn't remember hearing it until you showed me</p>

Unsigned

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<p>1 Board meeting?</p> <p>2 A. No, sir, I did not.</p> <p>3 Q. When -- to broaden the question, if any</p> <p>4 other Board member offered a moment of silence would</p> <p>5 you believe that the moment of silence is not</p> <p>6 effective to solemnify the proceedings?</p> <p>7 A. That would be their choice and I'm okay</p> <p>8 with what other people give. Whatever prayer</p> <p>9 someone else gives or how they give it's their</p> <p>10 personal -- it's a personal thing with each one of</p> <p>11 us, and if that's the way they chose it then that's</p> <p>12 fine with me.</p> <p>13 Q. But as I understand the policy, the purpose</p> <p>14 of the prayer or moment of silence is to solemnify</p> <p>15 the proceedings, correct?</p> <p>16 A. Right.</p> <p>17 Q. If you believe that a moment of silence is</p> <p>18 not effective to solemnify --</p> <p>19 A. It's not to me.</p> <p>20 Q. You have to let me finish my question?</p> <p>21 A. Okay, sorry.</p> <p>22 Q. If you believe that a moment of silence is</p> <p>23 not effective to solemnify the proceedings, why did</p> <p>24 you vote to approve this policy?</p> <p>113</p>	<p>1 pray aloud or silently as so I choose at a Board</p> <p>2 meeting.</p> <p>3 Q. Okay. You believe you have the right to</p> <p>4 pray to convert someone --</p> <p>5 A. No, sir.</p> <p>6 Q. Just a minute, let me finish my question?</p> <p>7 A. Sorry.</p> <p>8 Q. As an individual citizen, isn't that</p> <p>9 correct?</p> <p>10 A. As an individual citizen?</p> <p>11 Q. Yes, ma'am.</p> <p>12 A. Do I feel I have a right to pray to convert</p> <p>13 someone?</p> <p>14 Q. Yes, ma'am.</p> <p>15 A. Personally, privately I would pray to</p> <p>16 convert someone, but would I go to that person and</p> <p>17 like pray over them to convert them, is that what</p> <p>18 you mean?</p> <p>19 Q. No. I'm just asking what you have the</p> <p>20 right to do as you understand it?</p> <p>21 A. Okay. Do I have the right to try to</p> <p>22 convert someone else?</p> <p>23 Q. Yes.</p> <p>24 A. No, sir, that's not my right.</p> <p>115</p>
<p>1 A. Because as I said it's among the ten of us.</p> <p>2 It's not just my policy, it's ten people's policy,</p> <p>3 it's the community's policy. Therefore, each person</p> <p>4 has their own personal feelings about the whole</p> <p>5 thing. How do I feel about it personally, I feel it</p> <p>6 should be done out loud. Do I respect someone</p> <p>7 else's feelings of how it should be done, yes. I</p> <p>8 respect their prayer whatever kind of prayer it is</p> <p>9 because I respect other people and their right to</p> <p>10 say and do what they think is right.</p> <p>11 Q. In their capacity as individuals or in</p> <p>12 their capacity as Board members?</p> <p>13 A. Well, I guess as Board members that evening</p> <p>14 at our regular meeting.</p> <p>15 Q. Do you draw any distinction at all in your</p> <p>16 mind between your rights in your capacity as a Board</p> <p>17 member and your rights in your capacity as an</p> <p>18 individual citizen?</p> <p>19 A. Do I see any difference?</p> <p>20 Q. Yes.</p> <p>21 A. As far as Board prayer is concerned?</p> <p>22 Q. You can start there, yes.</p> <p>23 A. I think I have the right to pray aloud or</p> <p>24 silently in my regular life, and I have a right to</p> <p>114</p>	<p>1 Q. I'm going to give you an example of a</p> <p>2 prayer?</p> <p>3 A. Okay.</p> <p>4 Q. And the prayer would be, Lord, we ask that</p> <p>5 you open the hearts of the heathen among us, that</p> <p>6 they may join the community of your church?</p> <p>7 A. Would I give that prayer?</p> <p>8 Q. Nope, that's not my question. My first</p> <p>9 question is, as you understand the rights of U.S.</p> <p>10 Citizens, do U.S. Citizens have the right to offer</p> <p>11 that prayer?</p> <p>12 A. They have the right to offer that prayer.</p> <p>13 Q. As you understand the rights of school</p> <p>14 teachers in class, do teachers have the right to</p> <p>15 offer that prayer in class?</p> <p>16 A. No, they do not have the right to offer</p> <p>17 that prayer.</p> <p>18 Q. As you understand the rights of School</p> <p>19 Board members, as School Board members, do they ha</p> <p>20 the right to offer that prayer at a School Board</p> <p>21 meeting?</p> <p>22 A. The one with the heathens among us?</p> <p>23 Q. Yes.</p> <p>24 A. No, they do not have the right to offer</p> <p>116</p>

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<p>1 that prayer.</p> <p>2 Q. Is that because as School Board members,</p> <p>3 the School Board members are government officials?</p> <p>4 A. I feel School Board members are government</p> <p>5 officials.</p> <p>6 Q. And is that the distinction between their</p> <p>7 right to offer such a prayer as individuals, and the</p> <p>8 fact that they don't have such a right to offer such</p> <p>9 a prayer as School Board members, that they're</p> <p>10 government officials?</p> <p>11 A. The one with the heathens among us?</p> <p>12 Q. Yes, ma'am.</p> <p>13 A. I think that violates our number three.</p> <p>14 That's why I wouldn't expect anyone to say something</p> <p>15 like that. I don't think it would have anything to</p> <p>16 do with whether we were an individual or a</p> <p>17 government official.</p> <p>18 Q. All right, in the absence of your policy?</p> <p>19 A. Okay, in the absence of our policy --</p> <p>20 Q. Before you passed the policy on October 19,</p> <p>21 2004, is it your understanding that Indian River</p> <p>22 School Board members could have offered the prayer</p> <p>23 that I gave you, please Lord, convert the heathen</p> <p>24 among us?</p> <p style="text-align: center;">117</p>	<p>1 A. Yes, establishing of religion by the</p> <p>2 government.</p> <p>3 Q. And do you understand that the laws which</p> <p>4 prohibit teachers, for example, from opening their</p> <p>5 classes with a prayer, are based on that so called</p> <p>6 establishment clause?</p> <p>7 MR. SHAW: I'm going to object to</p> <p>8 your question. She is not an attorney and</p> <p>9 doesn't have any knowledge of what the laws</p> <p>10 are based upon.</p> <p>11 MR. ALLINGHAM: I don't think that</p> <p>12 Jarrod is instructing you not to answer.</p> <p>13 MR. SHAW: If you have some sort</p> <p>14 of knowledge outside of a legal analysis to</p> <p>15 base you answer upon, that's fine.</p> <p>16 A. I have no knowledge of. I even forgot what</p> <p>17 was in the First Amendment.</p> <p>18 Q. Do you recall who proposed that a moment of</p> <p>19 silence be included in the options in the School</p> <p>20 Board Prayer Policy?</p> <p>21 A. No, I don't.</p> <p>22 Q. We're coming to the end, Mrs. Bunting.</p> <p>23 It's good when you don't even have to ask a question</p> <p>24 and someone hands you what you need. Have you --</p> <p style="text-align: center;">119</p>
<p>1 A. They wouldn't have.</p> <p>2 Q. Could they have?</p> <p>3 A. Well, I guess they possibly could have, but</p> <p>4 again they wouldn't have.</p> <p>5 Q. Over the course of the -- over the course</p> <p>6 of this litigation, have you ever had occasion to</p> <p>7 read the First Amendment of the Constitution?</p> <p>8 A. No. Like I said, I can read something and</p> <p>9 forget it tomorrow.</p> <p>10 Q. You understand that the right to free</p> <p>11 exercise of religion is found in the First Amendment</p> <p>12 of our Constitution?</p> <p>13 A. I think that we read the First Amendment</p> <p>14 aloud to the children on the first day of school</p> <p>15 every year, is that what we would have read?</p> <p>16 Q. Don't know.</p> <p>17 A. I think so.</p> <p>18 Q. In all events, you do understand that the</p> <p>19 First Amendment is where freedom of religion is</p> <p>20 found?</p> <p>21 A. Yes, I guess, you're reminding me of it.</p> <p>22 Q. Do you also understand that the First</p> <p>23 Amendment has language prohibiting the establishment</p> <p>24 of religion by the government?</p> <p style="text-align: center;">118</p>	<p>1 did you do anything to prepare for this deposition?</p> <p>2 A. Did I do anything?</p> <p>3 Q. Yes, ma'am.</p> <p>4 A. Obviously I should have, but no.</p> <p>5 Q. Did meet with your attorneys?</p> <p>6 A. Oh, they met with us, what last week one</p> <p>7 day last week.</p> <p>8 MR. SHAW: I can't answer</p> <p>9 questions.</p> <p>10 A. Oh, you are not allowed to answer</p> <p>11 questions. It was one day last week I met with two</p> <p>12 other people just to, we had never done anything</p> <p>13 like this before, to let us know a few things.</p> <p>14 Q. Did -- who were the other two people</p> <p>15 present during that meeting?</p> <p>16 A. I was in with Janet Hern and Donna</p> <p>17 Mitchell.</p> <p>18 Q. Did you look at any documents during that</p> <p>19 meeting?</p> <p>20 MR. SHAW: I'm going to object to</p> <p>21 what actually occurred at that meeting as</p> <p>22 protected by attorney/client privilege.</p> <p>23 MR. ALLINGHAM: Incorrect.</p> <p>24 Q. Did you look at any documents during that</p> <p style="text-align: center;">120</p>

EXHIBIT 3

Bunting, Susan 10/25/2006 4:41:00 PM

<p>FOR THE DISTRICT OF DELAWARE MONA DOBRICH and MARCO DOBRICH, Individually and as parents and next friend of ALEXANDER DOBRICH, SAMANTHA DOBRICH, JANE DOE and JOHN DOE, Individually and as parents and next friend of JORDAN DOE and JAMIE DOE,</p> <p>Plaintiffs,</p> <p>v. INDIAN RIVER SCHOOL DISTRICT, et al.,</p> <p>Defendants.</p> <p>Videotaped Deposition of SUSAN S. BUNTING, Ed.D., taken pursuant to notice at 31 Hosier Street, Selbyville, Delaware, beginning at 9:00 a.m., on Wednesday, October 25, 2006, before Terry Barban Burke, RMR-CRR and Notary Public.</p> <p>APPEARANCES: THOMAS ALLINGHAM, ESQUIRE BRIAN LENHARD, ESQUIRE One Rodney Square Wilmington, Delaware 19801 For the Plaintiff WILCOX & FETZER 1330 King Street - Wilmington, Delaware 19801 (302) 655-0477 www.wilfet.com</p> <p>1</p>	<p>1 MR. SHAU: My name is Jarrod Shau, and I 2 represent the defendants in this litigation. 3 SUSAN S. BUNTING, Ed.D., 4 the deponent herein, having first been 5 duly sworn on oath, was examined and 6 testified as follows: 7 BY MR. LENHARD: 8 Q. Good morning, Dr. Bunting. 9 A. Good morning. 10 Q. Have you ever been deposed before? 11 A. Once. 12 Q. What action was that in? 13 A. It had to do with a business that we formerly 14 had here many years ago. The business closed maybe 15 20 years ago. 16 Q. But it had nothing to do with Indian River 17 School District? 18 A. Absolutely not, no. 19 Q. Before we begin, I'd like to go over the 20 deposition and what's going to happen today. I'm going 21 to ask you a series of questions. The deposition is 22 being videotaped and it's also being transcribed. When 23 I ask you a question if you could give an oral answer, 24 an out loud answer so the court reporter can transcribe</p> <p>3</p>
<p>1 APPEARANCES (cont'd): 2 JARROD SHAU, ESQUIRE Drinker, Biddle & Reath, LLP 3 One Logan Square 18th and Cherry Streets 4 Philadelphia, Pennsylvania 19103-6996 For the Defendants 5 6 ALSO PRESENT: 7 TIMOTHY KEARNS MARK BUCKMASTER, Videographer 8 9 VIDEO SPECIALIST: This is the videotape 10 deposition of Dr. Susan S. Bunting, taken by the 11 plaintiff in the matter of Dobrich, et al., versus 12 Indian River School District, et al, Civil Action No. 13 15-120, held at 31 Hosier Street, Selbyville, Delaware, 14 on October 25th, 2006, at approximately 9:02 a.m. 15 The court reporter is Terry Burke from 16 the firm of Wilcox & Fetzer. My name is Mark 17 Buckmaster, a video specialist from Discovery Video 18 Services, Incorporated, in association with Wilcox & 19 Fetzer. 20 Counsel will now introduce themselves and 21 the reporter will swear in the witness. 22 MR. LENHARD: My name is Brian Lenhard 23 and I represent the plaintiffs in this litigation, and 24 I'm here with Tom Allingham and Tim Kearns.</p> <p>2</p>	<p>1 it, that would be very helpful, instead of uh-huh or 2 shaking your head. 3 Also, please wait until I ask the 4 question, and I'll try to do the same and wait until 5 you answer the question before asking the next 6 question. The court reporter can only take down one 7 person's conversation at a time. 8 If you don't understand my question, 9 please ask me to clarify it or to rephrase it. If you 10 don't ask me to clarify it, we'll presume that in the 11 future a judge or jury looking at the videotape or 12 reading the transcript will presume that you understood 13 the question. 14 If at any time you want to take a break, 15 please let me know. If there's a question pending, 16 I'll ask you to answer the question first but then 17 we'll take a break. The DVD tapes are one hour long so 18 we'll take a break every hour anyway. 19 Are you feeling well today? 20 A. Yes. 21 Q. Are you taking any medication that might make 22 it difficult for you to understand and answer my 23 questions? 24 A. I don't believe so.</p> <p>4</p>

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<p>1 Q. Do you agree with the first phrase in the 2 paragraph numbered one that says, "In order to 3 solemnify its proceedings," is that a fair summary of 4 the answer you just gave? 5 A. Yes. 6 Q. Were you involved in policy committee meetings 7 where this policy was discussed? 8 A. Yes. Usually it takes several meetings, so 9 I'm sure at some of those meetings I was involved. 10 Q. Will you give me a number of how many meeting 11 you think you were involved at at which this was 12 discussed? 13 A. No, I can't. I'd have to -- 14 Q. More than two? 15 A. Possibly. Usually there's a process that's 16 involved in devising any policy where it's usually 17 worked on at the policy committee. The policy, the 18 proposed policy, a draft is shared with administrators 19 throughout the district. It goes to the board. It has 20 a first reading. During the process of the next month, 21 it is revisited. The committee probably looks at it 22 again. The board members receive comments at times 23 about proposed policies so that they are prepared when 24 it comes up at a second board meeting to make a</p> <p style="text-align: center;">81</p>	<p>1 other paragraphs or deleting certain of these 2 paragraphs that are included? 3 A. This may have come from some other source, an 4 what Mr. Walls would sometimes say to the policy 5 committee members would be, can we find an existing 6 sample that we then can take a look at and draft a 7 similar one, an identical one. That's often the 8 process. So I'm not sure where these words 9 originally -- where they came from originally. 10 Q. Does he say those words in substance at the 11 beginning of the procedure? Let me back up. Is the 12 policy committee given direction from the board to 13 draft a policy on a certain area? 14 A. At times. 15 Q. For this policy, was it given any direction by 16 the board? 17 A. Probably. That we needed a board policy that 18 would deal with school prayer. 19 Q. You don't have any recollection that the board 20 did not direct the policy committee to draft this 21 policy? 22 A. I don't have any recollection that they did 23 not. 24 Q. And my question is, assuming for the purposes</p> <p style="text-align: center;">83</p>
<p>1 decision on whether or not this should be put into 2 policy. 3 Q. That answer you just gave was a general 4 description of policy approval; correct? 5 A. Yes. 6 Q. Was that procedure followed with regard to 7 this policy? 8 A. Without taking a look at minutes from -- this 9 goes back to October of 2004, I'd have to say that was 10 the procedure that was followed. 11 Q. You have no affirmative recollection that the 12 procedure was not followed? 13 A. Correct. 14 Q. Do you have any recollection of specific 15 discussions about this policy in the policy committee 16 meetings? 17 A. About -- 18 Q. About the components of this policy? 19 A. I have no recollection of specific 20 discussions. 21 Q. Mr. Walls never suggested any other drafts or 22 modifications to this policy during those meetings? 23 A. Can you be specific? 24 Q. Was there a general discussion about including</p> <p style="text-align: center;">82</p>	<p>1 of this question the board did direct the policy 2 committee to draft a policy on board prayer regular 3 board meetings, did Mr. Walls begin the process by 4 saying, you know, the procedure around here is maybe 5 could look to some other policy from someone else and 6 either use it in its identical form or shape it to our 7 own needs as necessary? 8 A. I can't remember exact words from any meeting 9 two years ago. 10 Q. What I'm trying to get at is, did he start the 11 process by saying let's get a policy from someone else 12 or did it ever occur to him to draft his own policy or, 13 excuse me, the policy committee to draft its own 14 policy? 15 A. It may have been a combination. I really 16 don't remember the origin of how we got started on the 17 draft that eventually went to the board. 18 Q. Do you remember any drafts that are 19 substantially different from this one? 20 A. I think at one point there might have been a 21 paragraph version of this, but the difference would be 22 this has one, two, three, four, five as opposed to 23 being in a paragraph. 24 MR. LENHARD: Dr. Bunting, we're close to</p> <p style="text-align: center;">84</p>

EXHIBIT 4

Cohee, Richard (Video) 10/17/2006 1:17:00 PM

<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE DISTRICT OF DELAWARE</p> <p>3 MONA DOBRICH and MARCO : C.A. No. 15-120 (JJF)</p> <p>4 DOBRICH, Individually and :</p> <p>5 as parents and next friend :</p> <p>6 of ALEXANDER DOBRICH, :</p> <p>7 SAMANTHA DOBRICH, JANE DOE :</p> <p>8 and JOHN DOE, Individually :</p> <p>9 and as parents and next :</p> <p>10 friend of JORDAN DOE and :</p> <p>11 JAMIE DOE, :</p> <p>12</p> <p>13 Plaintiffs, :</p> <p>14 v. :</p> <p>15</p> <p>16 INDIAN RIVER SCHOOL :</p> <p>17 DISTRICT, et al., :</p> <p>18</p> <p>19 Defendants, :</p> <p>20</p> <p>21 Videotaped Deposition of RICHARD COHEE,</p> <p>22 taken pursuant to notice, on Tuesday, October 17, 2006</p> <p>23 at 1:17 p.m. at 31 Hoeler Street, Selbyville, Delaware,</p> <p>24 reported by Lorena J. Hartnett, a Registered</p> <p>Professional Reporter and Notary Public.</p> <p>APPEARANCES:</p> <p>BRIAN G. LENHARD, ESQUIRE</p> <p>RICHARD HORVATH, ESQUIRE</p> <p>One Rodney Square</p> <p>Wilmington, DE 19801</p> <p>Attorney for the Plaintiff</p> <p>WILCOX & FETZER</p> <p>1330 King Street - Wilmington, DE 19801</p> <p>302-655-0477</p> <p>www.wilfet.com</p>	<p>3</p> <p>1</p> <p>2</p> <p>3 TABLE OF CONTENTS</p> <p>4 TESTIMONY OF RICHARD COHEE:</p> <p>5 Direct Examination by Mr. Lenhard 4</p> <p>6 Certificate of Reporter 116</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p>2</p> <p>1</p> <p>2 APPEARANCES (CONTINUED):</p> <p>3 JASON P. GOSSELIN, ESQUIRE</p> <p>4 Drinker, Biddle & Reath, LLP</p> <p>5 One Logan Square</p> <p>6 18th and Cherry Streets</p> <p>7 Philadelphia, PA 19103-6996</p> <p>8 Attorney for the Defendants</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>4</p> <p>1 VIDEOGRAPHER: This is the videotaped</p> <p>2 deposition of Mr. Richard Cohee taken by the</p> <p>3 plaintiff in the matter of Dobrich et al</p> <p>4 versus Indian River School District, et al,</p> <p>5 Case Number 15-120. This deposition is</p> <p>6 being held at 31 Hosler Boulevard. We are</p> <p>7 going on the record on October 17, 2006 at</p> <p>8 approximately 1:17 p.m.</p> <p>9 The court reporter is Lorena Hartnett</p> <p>10 from the firm of Wilcox and Fetzer,</p> <p>11 Wilmington, Delaware. My name is Lindsey</p> <p>12 DuPhily. I am the videotape specialist with</p> <p>13 Discovery Video Services.</p> <p>14 Counsel will now introduce themselves</p> <p>15 and the court reporter will swear in the</p> <p>16 witness.</p> <p>17 MR. LENHARD: My name is Brian</p> <p>18 Lenhard, and I represent the plaintiffs in</p> <p>19 this action.</p> <p>20 MR. GOSSELIN: Jason Gosselin for</p> <p>21 defendants.</p> <p>22 RICHARD COHEE,</p> <p>23 HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:</p> <p>24 DIRECT EXAMINATION ON BEHALF OF THE PLAINTIFF</p>

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<p>1 A. The regular board meetings are scheduled 2 monthly. They are posted in advance. The agenda for 3 that meeting is posted in advance. The locations for 4 the regular board meetings are alternated between, now 5 between Indian River High School, the new one, and 6 Sussex Central High School, the new one. 7 The meetings start at 7:30, most evenings, 8 the regular meeting starts at 7:30. There are times 9 when we may have a special meeting or start the 10 meeting early and have an executive session issue 11 prior to the regular meeting, but we have always -- 12 not always, but we try it make it a policy that we do 13 not keep the public that's there for the public 7:30 14 meeting waiting. 15 So if we have a short executive session, we 16 come out at 7:30, have the public portion and, if need 17 be, go back to executive session later on. We learned 18 that a number of years ago on an issue, and that has 19 worked rather well for us. 20 The meeting, itself, is called to order by 21 the board president. Attendance is taken. You have 22 the introduction of the colors by the ROTC from either 23 high school, approval of the agenda, approval of 24 minutes. And my order may be off a little bit. And</p> <p>33</p>	<p>1 there, for the most part? 2 A. Normally, for various reasons. 3 Q. Does the board invite them? 4 A. Um, I don't know that the board invites. I 5 am not sure how the current board president and the 6 superintendent prepare the agenda. A lot of the 7 students that come are there for different types of 8 recognition. I think that is put together by staff. 9 Q. Are they there when the meeting is called to 10 order? 11 A. They can be. 12 Q. Has student government always been at the 13 meetings? 14 A. Um, student government was added to the 15 meetings. When I first came on board it wasn't there. 16 Q. And did you move for student government to be 17 at the meeting? 18 A. Yes, I did, ninety -- I came on '93. I don't 19 know if it was '93 or '94, maybe even '95, but it was 20 early in my tenure there. 21 Q. And why did you do that? 22 A. We had a -- We had a -- Periodically we had 23 student reports of the various activities in the 24 school in an informal way at the meetings, and they</p> <p>35</p>
<p>1 then we go into new business, old business, personnel 2 issues, and down the list. 3 Q. When you ran through the agenda, did you 4 mention prayer in that list of things that you did? 5 A. I did not mention that, no. 6 Q. And where does that fit in? 7 A. That fits in prior to, I believe, the -- As 8 many times as we have done it, I am going blank 9 whether it's prior to the colors or after the colors. 10 Q. Is there a history of student attendance at 11 these school board meetings? 12 A. There are students in attendance at the 13 meeting, yes. 14 Q. And how far back does that go? 15 A. I would guess but for maybe a couple summer 16 meetings, most of the meetings probably have some 17 students in attendance and probably have since I have 18 been with the board. 19 Occasionally in the summertime the attendance 20 is very light when school is not in session. I can't 21 say that there weren't any students there, but that 22 would probably be the time when there would be the 23 biggest opportunity to not have students there. 24 Q. But during the school year there is students</p> <p>34</p>	<p>1 would come up and they would tell you what's going on, 2 how the football game was going and that kind of 3 thing, and I personally felt that it was good -- There 4 was some talk at one point when actually a couple 5 districts supported having a student board member, and 6 I just thought it would be beneficial to the children 7 or to the students to have their spot on our agenda, 8 to be recognized there. That was my feelings on that. 9 Q. So it was your motion that is the driving 10 force in getting the student government to the 11 meeting? 12 A. I had made the motion, yes. 13 Q. But the superintendent would have done it on 14 her own? 15 A. Done what? 16 Q. Well, I asked you a few minutes ago did the 17 board invite students to the meeting, and you said 18 depending what the superintendent does. 19 A. Uh-huh, uh-huh. 20 Q. Correct? 21 A. Uh-huh, yes. Sorry. 22 Q. But now my question now is it's because of 23 your motion that the superintendent asked those 24 students; correct?</p> <p>36</p>

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<p>1 see it as being threatening or disparaging and would 2 be acceptable. 3 Q. Do you think that this prayer is 4 proselytizing? 5 A. That's what I just said, as you have read it, 6 I don't see it as such. 7 Q. Okay. All right, one more. It's even 8 shorter. Here is the prayer. "We pray, Lord, 9 enlighten the heathen in our midst, inspire them to 10 come to your wisdom and goodness. We ask these things 11 in the name of Jesus Christ. Amen." 12 A. Read it one more time. 13 Q. "We pray, Lord, enlighten the heathen in our 14 midst, inspire them to come to your wisdom and 15 goodness. We ask these things in the name of Jesus 16 Christ. Amen." 17 A. "Inspire the heathen, we ask them to come to 18 you --" What was that clause? 19 Q. Wisdom and goodness. 20 A. Yeah, I would think that would violate the 21 section, as well. 22 Q. Okay. Do you think that non-Christians can 23 get elected to the school board? 24 A. Do I think they can?</p> <p>109</p>	<p>1 meetings? 2 A. Any disruptions? 3 Q. Yes. 4 A. I don't recall any. 5 Q. Do you recall whether there was a prayer 6 given at the August 24, 2004 meeting? That was the 7 one we played for you on the videotape. 8 A. Um, I think that there was, but I don't know 9 for certain. 10 Q. If you look at the first, on the first page 11 in the first paragraph. 12 A. Of the minutes? 13 Q. Of the August 24, yes, 2004 minutes. 14 A. Okay, Dr. Hattier gave a prayer. 15 Q. Correct. Now, you heard on videotape the 16 laughter while Mr. Johnson was giving his public 17 comment? 18 A. I heard laughter and other sounds. 19 Q. Would you call that solemn? 20 A. Some of it I would, because some of it 21 sounded like they were in support of the statement as 22 far as I think I heard a couple amens and a couple 23 yes, and that's not laughter. 24 The laughter, I would say would probably not</p> <p>111</p>
<p>1 Q. Yes. 2 A. Why couldn't they? 3 Q. Do you think that the -- What do you think 4 the religious faith of most people in the Indian River 5 is? 6 A. Religious faith would be mostly Christian. 7 Q. Has that ever been an issue in the school 8 board election? 9 A. I don't know that it's been an issue with 10 school board elections during my tenure, at least, 11 prior to this. And I am not certain that it's been a 12 sole issue since this, but I do know that, from 13 reading comments by other opponents, and I can't even 14 recall who they were, there were some issues with the 15 board pursuing this by some, they were against it, so 16 as minor -- Well, as minimal as that may be, I 17 wouldn't say minor, then it is an issue, yes. In 18 somebody's mind they don't agree with what the board 19 is doing here. 20 Q. There were board meetings on April 26, 2005 21 and May 24, 2005, and I will represent to you those 22 board minutes began with a moment of silence. 23 A. Okay. 24 Q. Do you recall any disruptions at those</p> <p>110</p>	<p>1 be solemn. However, it is the opportunity for the 2 public to speak, and we have a policy for that. We 3 try to adhere to that policy, and it's difficult to 4 control what one says at the podium. It's also 5 difficult to control what the audience participants 6 interject. 7 Q. Do you think it matters to the audience 8 whether you give a prayer or a moment of silence 9 before the school board meeting? 10 A. I don't know whether it matters to the 11 audience or not. It matters to the board, and we do 12 it for the board. We don't do it for the audience. 13 MR. LENHARD: I think I am getting 14 close to the end, and I am going to suggest 15 we take a few minute break for me to review 16 the notes. 17 THE WITNESS: Okay. 18 VIDEOGRAPHER: Going off the record at 19 approximately 4:02 p.m. 20 (A recess was taken.) 21 VIDEOGRAPHER: We are back on the 22 record at approximately 4:09 p.m. 23 BY MR. LENHARD: 24 Q. Mr. Cohee, do you remember the audience</p> <p>112</p>

EXHIBIT 5

Doe, Jane 12/5/2006 1:30:00 PM

<p style="text-align: center;">C O N F I D E N T I A L IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE</p> <p>MONA DOBRICH and MARCO) CONFIDENTIAL DOBRICH, Individually and) as parents and next friend) of ALEXANDER DOBRICH,) SAMANTHA DOBRICH, JANE DOE) and JOHN DOE, Individually) and as parents and next) friend of JORDAN DOE and) JAMIE DOE,)</p> <p style="text-align: center;">Plaintiffs,) v.) Civil Action INDIAN RIVER SCHOOL,) No. 05-120 DISTRICT, et al.,) Defendants.)</p> <p>Deposition of JANE DOE, taken pursuant to notice at Drinker, Biddle & Reath, 1100 North Market Street, Suite 1000, Wilmington, Delaware, beginning at 1:30 p.m., on Tuesday, December 5, 2006, before Terry Barbano Burke, RMR-CRR and Notary Public.</p> <p>APPEARANCES: THOMAS J. ALLINGHAM, II, ESQUIRE One Rodney Square Wilmington, Delaware 19801 For the Plaintiff WILCOX & FETZER 1330 King Street - Wilmington, Delaware 19801 (302) 655-0477</p> <p style="text-align: center;">1</p>	<p>1 testified as follows:</p> <p>2 BY MR. SHAU:</p> <p>3 Q. Let me just add, Mrs. Doe, I'm going to</p> <p>4 attempt to try to ask questions that won't lead you</p> <p>5 down the path of saying your name or your children's</p> <p>6 names, but in the event that I do, don't worry about it</p> <p>7 and we will be able to remedy it later.</p> <p>8 A. Okay.</p> <p>9 Q. My name is Jarrod Shau, and I represent the</p> <p>10 defendants in this action.</p> <p>11 I am going to ask you a bunch of</p> <p>12 questions about various things that have occurred, and</p> <p>13 I ask that if you don't understand the question, you</p> <p>14 ask me to rephrase it, or if you don't hear it, you ask</p> <p>15 me to ask it again.</p> <p>16 If you answer the question as it's asked</p> <p>17 on the record, it's going to look like you understood</p> <p>18 the question.</p> <p>19 A. Uh-huh.</p> <p>20 Q. So if you need for me to repeat it or rephrase</p> <p>21 it, please ask me to and I will be happy to.</p> <p>22 One other thing is the court reporter</p> <p>23 can't see uh-huh or when you shake your head, so if you</p> <p>24 could answer affirmatively or negatively, however you</p> <p style="text-align: center;">3</p>
<p>2 APPEARANCES (cont'd):</p> <p>3 JARROD SHAU, ESQUIRE</p> <p>4 Drinker, Biddle & Reath, LLP</p> <p>5 One Logan Square</p> <p>6 18th and Cherry Streets</p> <p>7 Philadelphia, Pennsylvania 19103-6996</p> <p>8 For the Defendants</p> <p>9 ALSO PRESENT:</p> <p>10 TIMOTHY KEARNS</p> <p>11 - - -</p> <p>12 MR. ALLINGHAM: While we were off the</p> <p>13 record, Mr. Shau and I agreed that we would all try to</p> <p>14 refer to the witness by her pseudonym of Jane Doe and</p> <p>15 to members of her family by the pseudonyms given ther</p> <p>16 in the complaint.</p> <p>17 We have also agreed, and I want to</p> <p>18 express my appreciation to Mr. Shau for this</p> <p>19 suggestion, that we will each, to the extent anyone</p> <p>20 slips up, we can substitute the appropriate pseudonym</p> <p>21 in the final transcript so the anonymity of the witness</p> <p>22 and the members of her family will again be preserved,</p> <p>23 and I again appreciate that.</p> <p>24 JANE DOE,</p> <p>the deponent herein, having first been</p> <p>duly sworn on oath, was examined and</p> <p style="text-align: center;">2</p>	<p>1 choose, that would be appreciated by the court</p> <p>2 reporter.</p> <p>3 A. Okay.</p> <p>4 Q. If you need to take a break at any point, just</p> <p>5 let me know, we can stop whenever you want. If you</p> <p>6 want water or to use the rest room, please let me know.</p> <p>7 Mrs. Doe, have you ever been deposed</p> <p>8 before?</p> <p>9 A. No.</p> <p>10 Q. What did you do to prepare for this</p> <p>11 deposition?</p> <p>12 A. Spoke with my lawyer.</p> <p>13 Q. Your lawyer, Mr. Allingham?</p> <p>14 A. Yes.</p> <p>15 Q. When did you speak with Mr. Allingham?</p> <p>16 A. Thursday.</p> <p>17 Q. Did you review any documents during that</p> <p>18 preparation?</p> <p>19 A. No.</p> <p>20 Q. Have you spoken with anyone else regarding</p> <p>21 your deposition today?</p> <p>22 A. Just my husband.</p> <p>23 Q. Mrs. Doe, what town do you currently live in?</p> <p>24 A. Dagsboro, Delaware.</p> <p style="text-align: center;">4</p>

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1 it didn't seem to us that board members were rotating.
2 Q. So after reading the policy --
3 A. And --
4 Q. I'm sorry, please finish.
5 A. And on No. 3, we did feel that the way the
6 board gave their prayer was proselytizing.
7 Q. I would like to ask you a few questions about
8 that.
9 So when you discussed it, you felt that
10 some of the board prayers that you had heard in the
11 past were proselytizing?
12 A. Yes. If proselytizing is to advance one
13 particular religion, is that what we agree on?
14 Q. If that's your definition, that's fine.
15 A. Then, yes, that would be the case.
16 Q. And it's accurate to say you had only attended
17 two board meetings at the time you reviewed this
18 policy?
19 A. Right.
20 Q. Did the board prayer at those --
21 A. I'm sorry. I forgot one of the board
22 meetings. Can we go back?
23 Q. Sure.
24 A. The August 24th school board meeting.

13

1 Q. August 24?
2 A. Uh-huh.
3 Q. Did you sign in at the August 24th, 2004 board
4 meeting?
5 A. No, I did not.
6 Q. But you did attend the August 24th, 2004 board
7 meeting?
8 A. Yes.
9 Q. Did Mr. Doe attend that meeting?
10 A. No.
11 Q. Did either Jamie or Jordan attend that
12 meeting?
13 A. No.
14 Q. So I'll rephrase.
15 At the time you thought the board was,
16 I'll use your word, advancing religion --
17 A. Uh-huh.
18 Q. -- through prayer, you had heard three prayers
19 at board meetings?
20 A. Well, I can't recall in 1998.
21 Q. So in 1998 you don't recall that there was a
22 prayer said?
23 A. I don't recall. I might have, you know,
24 gotten there afterwards. I just can't recall.

14

1 Q. And spring of 2004, do you recall if there was
2 a prayer?
3 A. Yes.
4 Q. Do you remember who gave that prayer?
5 A. There was a gentleman, I believe it was
6 Reginald Helms, or it could have been John Evans. I'm
7 not sure exactly.
8 Q. Do you remember what that prayer was?
9 A. Yes.
10 Q. Do you remember the exact words of the prayer?
11 A. I remember the exact words of the end of the
12 prayer, "and in Jesus' name we pray."
13 Q. Before the prayer started, did Mr. Evans or
14 Mr. Helms, whomever gave the prayer, ask you to bow
15 your head?
16 A. I believe so, but I can't be sure.
17 Q. So you don't remember whether or not he did?
18 A. I know that we had been asked to bow our head
19 before and I'm not sure if that was the meeting.
20 Q. Were you asked to bow your head at the August
21 24th, 2004 meeting?
22 A. I can't recall specifically.
23 Q. Is it fair to say you don't remember any
24 specific instance of you being asked to bow your head,

15

1 you just generally remember that occurring at one of
2 the meetings you attended?
3 A. My recollection is that the impression given
4 was to bow your head for the prayer, but I can't recall
5 exactly whether we were specifically asked to bow our
6 heads. But I do remember bowing of heads.
7 Q. So it may have been just everyone in the area
8 bowed their heads and it just felt like you should have
9 bowed your head?
10 A. That may be.
11 Q. Did you bow your head during the prayer?
12 A. No.
13 Q. Did you feel like you had to bow your head
14 during the prayer?
15 A. Well, I'm not sure what you mean by "had to."
16 Can you rephrase that?
17 Q. Sure.
18 Even though you didn't bow your head,
19 did you feel any pressure?
20 A. Yes.
21 Q. However, you decided that you weren't going to
22 bow your head?
23 A. Correct.
24 Q. Why did you feel pressured to bow your head

16

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<p>1 even though you didn't?</p> <p>2 A. Well, I think what you describe as pressure is</p> <p>3 exactly right, it's peer pressure, you know, to bow</p> <p>4 your head. Everyone's bowing their head, so you would</p> <p>5 stand out if you didn't.</p> <p>6 Q. Did anybody say anything to you about you not</p> <p>7 bowing your head?</p> <p>8 A. No.</p> <p>9 Q. Let's go back, in the spring of 2004, when</p> <p>10 Mr. Helms or Mr. Evans gave the prayer and ended "in</p> <p>11 Jesus' name," how did that make you feel?</p> <p>12 A. Well, we were there to make a presentation and</p> <p>13 it made us feel uncomfortable and excluded. And that</p> <p>14 perhaps the board -- well, that's it.</p> <p>15 Q. Do you remember the prayer that was given at</p> <p>16 the August 24th, 2004 meeting?</p> <p>17 A. Yes.</p> <p>18 Q. Who gave that prayer?</p> <p>19 A. Donald Hattier.</p> <p>20 Q. Do you remember that prayer?</p> <p>21 A. Yes.</p> <p>22 Q. Were there any religious indications in that</p> <p>23 prayer?</p> <p>24 MR. ALLINGHAM: I object to the form of</p> <p style="text-align: center;">17</p>	<p>1 given whatever he said without any of that, would you</p> <p>2 have found it to be advancing religion?</p> <p>3 A. Yes.</p> <p>4 Q. Would you have still found it to be a</p> <p>5 Christian prayer?</p> <p>6 A. Well, I know Dr. Hattier's family to be</p> <p>7 Christian, so.</p> <p>8 Q. He didn't reference Jesus, though, did he?</p> <p>9 A. Well, it was a long prayer and I do not think</p> <p>10 it did reference Jesus.</p> <p>11 Q. You mentioned before that Paragraph 3 you felt</p> <p>12 that the board did use the prayer to proselytize or</p> <p>13 advance religion. When you were discussing the prayer</p> <p>14 with your husband, did you find anything objectionable</p> <p>15 about the policy?</p> <p>16 A. About this?</p> <p>17 Q. Yes, about what's in front of you, PX-9?</p> <p>18 A. Not that I can recall.</p> <p>19 Q. I'd like to take a few moments to go through</p> <p>20 the policy with you now paragraph by paragraph and</p> <p>21 discuss different aspects about it.</p> <p>22 Paragraph 1 reads, "In order to</p> <p>23 solemnify its proceeding, the board of education may</p> <p>24 choose to open its meetings with a prayer or moment of</p> <p style="text-align: center;">19</p>
<p>1 the question. You can answer.</p> <p>2 THE WITNESS: It mentioned God.</p> <p>3 BY MR. SHAU:</p> <p>4 Q. Were you offended by Dr. Hattier's prayer?</p> <p>5 A. I'm not exactly sure what you mean by</p> <p>6 offended.</p> <p>7 Q. How did Dr. Hattier's prayer make you feel?</p> <p>8 A. I would say the same as the other board</p> <p>9 meeting prayer.</p> <p>10 Q. It made you feel --</p> <p>11 A. That it was promoting religion.</p> <p>12 Q. How did it make you feel like it was promoting</p> <p>13 religion?</p> <p>14 A. Well, it was a school board meeting and</p> <p>15 Dr. Hattier knew us and it promoted one religion.</p> <p>16 Q. What religion did it promote?</p> <p>17 A. Well, due to the numerous signs around the</p> <p>18 room of people promoting Christianity and shouting amen</p> <p>19 and hallelujah, I would say that it promoted</p> <p>20 Christianity.</p> <p>21 Q. Let's try and take for a moment all of the</p> <p>22 people in the crowd with their signs and shouting amen,</p> <p>23 act as though it didn't happen, although it did.</p> <p>24 If Dr. Hattier had given his prayer or</p> <p style="text-align: center;">18</p>	<p>1 silence, all in accord with the freedom and conscious</p> <p>2 of the individual adult board member."</p> <p>3 Would it be okay with you if the board</p> <p>4 of education opened its meetings with a moment of</p> <p>5 silence?</p> <p>6 MR. ALLINGHAM: I object to the form of</p> <p>7 the question.</p> <p>8 You can answer.</p> <p>9 THE WITNESS: It would be okay with me.</p> <p>10 It wouldn't be my preference.</p> <p>11 BY MR. SHAU:</p> <p>12 Q. But you would be able to tolerate that?</p> <p>13 A. Uh-huh.</p> <p>14 Q. Would it be acceptable to you if the board</p> <p>15 opened with a prayer in God's name?</p> <p>16 MR. ALLINGHAM: I object to the form of</p> <p>17 the question.</p> <p>18 BY MR. SHAU:</p> <p>19 Q. You can answer the question.</p> <p>20 A. I'm sorry, would it be objectionable if it</p> <p>21 opened in God's name, is that the question?</p> <p>22 Q. Yes. To you?</p> <p>23 A. Yes.</p> <p>24 Q. Why?</p> <p style="text-align: center;">20</p>

EXHIBIT 6

Evans. John (Video) 10/18/2006 9:13:00 AM

<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF DELAWARE 3 MONA DOBRICH and MARCO : C.A. No. 15-120 (JJF) 4 DOBRICH, Individually and : 5 as parents and next friend : 6 of ALEXANDER DOBRICH, : 7 SAMANTHA DOBRICH, JANE DOE : 8 and JOHN DOE, Individually : 9 and as parents and next : 10 friend of JORDAN DOE and : 11 JAMIE DOE, : 12 : 13 Plaintiffs, : 14 : 15 v. : 16 : 17 INDIAN RIVER SCHOOL : 18 DISTRICT, et al., : 19 : 20 Defendants. : 21 : 22 Videotaped Deposition of JOHN M. EVANS, 23 taken pursuant to notice, on Wednesday, October 18, 24 2006 at 9:13 a.m. at 31 Hosler Street, Selbyville, Delaware, reported by Lorena J. Hartnett, a Registered Professional Reporter and Notary Public. APPEARANCES: THOMAS ALLINGHAM, ESQUIRE RICHARD HORVATH, ESQUIRE BRIAN LENHARD, ESQUIRE One Rodney Square Wilmington, DE 19801 Attorney for the Plaintiff WILCOX & FETZER 1330 King Street - Wilmington, DE 19801 (302) 655-0477 www.wilfet.com</p>	<p>1 2 3 TABLE OF CONTENTS 4 TESTIMONY OF JOHN M. EVANS: 5 Direct Examination by Mr. Allingham. 3 6 Certificate of Reporter 168 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
<p>1 2 APPEARANCES (CONTINUED): 3 JARROD SHAU, ESQUIRE 4 Drinker, Biddle & Reath, LLP 5 One Logan Square 6 18th and Cherry Streets 7 Philadelphia, PA 19103-6998 8 Attorney for the Defendants 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p>1 VIDEOGRAPHER: Okay. This is the 2 videotaped deposition of John M. Evans taken 3 by the plaintiffs in the matter of Dobrich 4 et al. versus Indian River School District, 5 et al., Civil Action Number 15-120. 6 The deposition is taking place at 31 7 Hosler Boulevard in Selbyville, Delaware, on 8 October 18, 2006 at approximately 9:13 a.m.. 9 The court reporter is Lorena Hartnett from 10 the firm of Wilcox and Felzer. 11 My name is Mark Buckmaster, a video 12 specialist from Discovery Video Services 13 incorporated in association with Wilcox and 14 Felzer. Counsel will now introduce 15 themselves and the reporter will swear in 16 the witness. 17 MR. ALLINGHAM: My name is Tom 18 Allingham. I represent the plaintiffs, and 19 with me are Richard Horvath and Brian 20 Lenhard. 21 MR. SHAU: My name is Jarrod Shew, and 22 I represent the defendants. 23 24</p>

Evans. John (Video) 10/18/2006 9:13:00 AM

<p>1 knowing Jesus. We also pray that you would be with</p> <p>2 them at this time. We ask these things in Jesus's</p> <p>3 name. Amen." Is that prayer permitted by or</p> <p>4 prohibited by paragraph three?</p> <p>5 A. Possibly the sentence, "We pray that you</p> <p>6 direct them into the truth and eventually the truth</p> <p>7 that comes by knowing Jesus," that might be, that</p> <p>8 might violate paragraph three.</p> <p>9 Q. You would view that as proselytizing?</p> <p>10 A. Yes, I would.</p> <p>11 Q. The next prayer may -- Your judgment about</p> <p>12 the next prayer may seem obvious to you, but I am</p> <p>13 going to ask it anyway. Suppose that a board member</p> <p>14 offered the prayer, "Oh, Lord, convert the heathen</p> <p>15 among us." That would violate it?</p> <p>16 A. That would definitely violate paragraph</p> <p>17 three.</p> <p>18 Q. Yes, sir, or a prayer that said, "Oh, Lord,</p> <p>19 bring the Jews in the audience to knowledge and love</p> <p>20 of our savior, Jesus Christ."</p> <p>21 A. It would violate paragraph three.</p> <p>22 Q. And I have one last prayer for you. It's</p> <p>23 short, but if you need me to read it again, I will.</p> <p>24 "Allah, we offer you our school bus drivers. We offer</p> <p>153</p>	<p>1 three.</p> <p>2 Q. Okay. Now, Mr. Evans, we talked earlier in</p> <p>3 the deposition about the enforcement mechanism for</p> <p>4 this paragraph, and I, I think we established that</p> <p>5 it's the board members who are ultimately responsible</p> <p>6 for enforcing all of the board prayer policy,</p> <p>7 including paragraph three; correct?</p> <p>8 A. Right.</p> <p>9 Q. If a board member offered, I am going to take</p> <p>10 the extreme example first or the most extreme example</p> <p>11 first, if a board member who was invited by the</p> <p>12 president to open a meeting with a prayer said, "Lord,</p> <p>13 we pray that you convert the Jews in the audience to</p> <p>14 knowledge and love of your son, our Lord, Jesus</p> <p>15 Christ," which you and I have agreed, I think, is</p> <p>16 violative of paragraph three, --</p> <p>17 A. Yes.</p> <p>18 Q. -- what would you do as a board member?</p> <p>19 A. What would I do?</p> <p>20 Q. If you heard that prayer, what would you do?</p> <p>21 A. Well, at that point it would be a little too</p> <p>22 late to stop it, but I would -- I would have to talk</p> <p>23 to the president that that person should be</p> <p>24 reprimanded. Maybe that's a harsh word, but that</p> <p>155</p>
<p>1 you our superintendent, our administrators, and our</p> <p>2 secretaries. We offer you our teachers and our</p> <p>3 parents. Finally, we offer you our students. Peace</p> <p>4 be unto your prophet, Muhammed." Would you view that</p> <p>5 as permitted or prohibited by paragraph three?</p> <p>6 A. Well, I don't know what the prayer means by</p> <p>7 offer.</p> <p>8 Q. So, without knowing, you can't make a</p> <p>9 judgment?</p> <p>10 A. That's correct. I don't know. Whomever</p> <p>11 would read that prayer, offer might mean something</p> <p>12 different to them than it does to me.</p> <p>13 Q. Well, let's explore that a little bit. Do</p> <p>14 you have a sense of what you would mean if you offered</p> <p>15 a prayer like that where you used the word, "we offer</p> <p>16 you our teachers and students," or would you just not</p> <p>17 offer a prayer like that?</p> <p>18 A. I wouldn't use the word offer. I might say,</p> <p>19 you know, protect or help or something along that</p> <p>20 line.</p> <p>21 I mean it appears that that would not violate</p> <p>22 paragraph three, but again it depends on what the word</p> <p>23 offer means by that individual. I would not be able</p> <p>24 to determine from that prayer if it violates paragraph</p> <p>154</p>	<p>1 person should be informed that they are not to pray</p> <p>2 like that. That violates paragraph three of our</p> <p>3 policy.</p> <p>4 Q. And all board members should comply with the</p> <p>5 policy; correct?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. But, as you pointed out, at that point</p> <p>8 the horse would be out of the barn, so to speak?</p> <p>9 A. That's right.</p> <p>10 Q. There is no provision in the policy for a</p> <p>11 reprimand or a punishment to a board member. Do you</p> <p>12 believe that a board member who offered such a prayer</p> <p>13 would be reprimanded or punished?</p> <p>14 A. Do I believe they would? If I were the</p> <p>15 president, yeah, I would.</p> <p>16 Q. And when you say reprimand, do you mean --</p> <p>17 A. Well, when I say reprimand, I just mean talk</p> <p>18 to that person and tell them, "Look, you violated our</p> <p>19 policy, you cannot pray like you just prayed, and, if</p> <p>20 it happens again, you won't be asked to pray." That's</p> <p>21 the way I would handle it.</p> <p>22 Q. Okay, and so, as you understand, it's not a</p> <p>23 mechanism that's set forth in the policy, but as you</p> <p>24 understand the way the policy ought to work, if a</p> <p>156</p>

EXHIBIT 7

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<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF DELAWARE 3 4 MONA DOBRICH and MARCO DOBRICH, individually and as parents and next friend of ALEXANDER DOBRICH, 5 SAMANTHA DOBRICH, JANE DOE and JOHN DOE, individually and as parents and next friend of 6 JORDAN DOE and JAMIE DOE, 7 Plaintiffs Civil Action 8 vs. NO. 15-120 9 INDIAN RIVER SCHOOL DISTRICT, ET AL., 10 Defendants 11 12 Deposition of GREGORY HASTINGS, taken pursuant to notice at the Indian River School 13 District, 31 Hosier Street, Selbyville, Delaware, beginning at 9:07 a.m. on October 13, 2006 before 14 David A. Sroka, Registered Professional Reporter and Notary Public. 15 16 APPEARANCES: 17 THOMAS ALLINGHAM, ESQ. RICHARD HORVATH BRIAN LENHARD 18 P.O. Box 636 Wilmington, Delaware 19899-0636 19 For the Plaintiffs JARROD D. SHAW, ESQ. 20 Drinker Biddle & Reath, LLP One Logan Square 21 Philadelphia, Pennsylvania 19103-6996 22 For the Defendants 23 24</p>	<p>3 1 GREGORY HASTINGS, 2 The Witness herein, called for examination by 3 the Plaintiffs, having been duly sworn to tell the 4 truth, the whole truth, and nothing but the truth, 5 was examined and testified as follows: 6 EXAMINATION BY MR. ALLINGHAM: 7 Q. Good morning, Mr. Hastings. I am going to 8 ask you to clear up something that has been bugging 9 me. Is it H-O-S-I-E-R or H-O-O-S-I-E-R? Is it 10 pronounced Hoosier or Hosier? 11 A. In this area we pronounce it Hosier. 12 Q. Do you know how it's spelled? 13 A. I believe it's one O. 14 Q. Thanks. Have you ever been deposed before? 15 A. Yes, I have, yes. 16 Q. In what context? 17 A. As a defendant. 18 Q. What kind of a case? 19 A. It was a teacher in our high school and 20 there was -- she brought on a suit, I have to 21 reflect, this has been 12 years, I guess. 22 Q. All right, I don't need that much detail. 23 That was a suit by a teacher? 24 A. Yes.</p>
<p>2 1 MS. DUPHILY: This is the 2 videotape deposition of Mr. Greg Hastings, 3 taken by the Plaintiff, in the 4 matter of Dobrich, et al. versus Indian 5 River School District, et al., case 6 number 15-120. 7 The deposition is taking place at 31 8 Hosier Boulevard, Selbyville, Delaware. We 9 are going on the record on October 13, 10 2006 at approximately 9:07 a.m.. The court 11 reporter is Dave Sroka from the firm of 12 Wilcox & Fetzer. My name is Lindsey 13 duPhily and I am with Discovery Video 14 Services in association with Wilcox & 15 Fetzer. 16 I will now ask counsel to 17 identify themselves on the record, and then 18 the court reporter will swear in the 19 witness. 20 MR. ALLINGHAM: I am Tom Allingham 21 representing the Plaintiffs. With me are 22 Rick Horvath and Brian Lenhard. 23 MR. SHAW: Jarrod Shaw 24 representing the defendants.</p>	<p>4 1 Q. And it was against you in your capacity as 2 a School Board member? 3 A. Capacity as a School Board member? 4 Q. Yes, sir? 5 A. Yes. 6 Q. Have you ever testified at trial? 7 A. I have been an expert witness in Small 8 Claims Court, that's the extent of it. 9 Q. Did the court issue an opinion in that 10 case? 11 A. Yes. 12 Q. Were you mentioned in the opinion? 13 A. I don't believe so. 14 Q. What was your area of expertise in that 15 testimony? 16 A. I had provided architectural design for the 17 product. This has been a long time, too but -- 18 Q. Let me cut you off. It has nothing to do 19 with issues of religion in the schools, right? 20 A. No, thank you, no. 21 Q. What is your -- I am trying to keep this 22 limited to the issues here. You are employed as an 23 architect? 24 A. Yes, I own a small architectural design</p>

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<p>1 A. Yes.</p> <p>2 Q. I was talking about the School Board Prayer</p> <p>3 Policy, BDA.1?</p> <p>4 A. That's all that was discussed.</p> <p>5 Q. Okay, so we can eliminate the August 24</p> <p>6 meeting as the venue for public deliberation on the</p> <p>7 School Board Prayer Policy, is that right?</p> <p>8 A. Yes.</p> <p>9 Q. Let me show you what we have previously</p> <p>10 marked as PX18, which is the official minutes of the</p> <p>11 September 28, 2004 Board meeting. And same questio</p> <p>12 here, take as much time as you want, Mr. Hastings,</p> <p>13 but would you point me to that portion of the</p> <p>14 minutes where there was public deliberation on the</p> <p>15 School Board Prayer Policy, and you may want to look</p> <p>16 at page six of the minutes?</p> <p>17 A. Just first reading of policy on page six.</p> <p>18 Q. Okay. Now, do you have a recollection that</p> <p>19 there was a discussion or deliberation by the Board</p> <p>20 substantively on the policy at that time, or was the</p> <p>21 policy simply identified and submitted for a first</p> <p>22 reading?</p> <p>23 A. I don't recall the extent.</p> <p>24 Q. We are fortunate in having a tape of this</p> <p style="text-align: center;">29</p>	<p>1 produced. Better yet you produced the CD</p> <p>2 from the tapes.</p> <p>3 MR. SHAW: We try.</p> <p>4 (AT THIS POINT A TAPE WAS PLAYED)</p> <p>5 Q. That is the extent of discussion of the</p> <p>6 School Board Prayer Policy BDA.1 at the September 28</p> <p>7 Board meeting. It runs from 11 minutes 45 seconds</p> <p>8 to 12 minutes and 32 seconds and you just heard the</p> <p>9 entirety of it. Would you characterize that as</p> <p>10 public consideration of or public deliberation on</p> <p>11 the School Board Prayer Policy by the Board?</p> <p>12 A. Yes.</p> <p>13 Q. Would you tell me in what way you consider</p> <p>14 that to be public consideration or public</p> <p>15 deliberation?</p> <p>16 A. We acknowledged the prayer, or we</p> <p>17 acknowledged the policy, or alleged policy, and then</p> <p>18 we were given the opportunity to either talk to</p> <p>19 constituents, if need be, or constituents had the</p> <p>20 freedom liberty to conduct us, or we as Board</p> <p>21 members can contact the policy committee with</p> <p>22 concerns or any specifics.</p> <p>23 Q. Would you agree with me that there was no</p> <p>24 opportunity for the public to observe the Board's</p> <p style="text-align: center;">31</p>
<p>1 meeting. I can play that portion of the tape for</p> <p>2 you and then I have a couple of questions about what</p> <p>3 occurred.</p> <p>4 MR. SHAW: Has the tape been</p> <p>5 entered into evidence as an exhibit?</p> <p>6 MR. ALLINGHAM: It has not. All</p> <p>7 right, why don't you take it out for a</p> <p>8 minute, Rick. I want to please have marked</p> <p>9 as PX52. Let me have the case, we will</p> <p>10 mark the case. Actually, let's mark the</p> <p>11 disk itself and we are going to mark it as</p> <p>12 PX52.</p> <p>13 (WHEREUPON, Exhibit PX52 was</p> <p>14 marked for identification)</p> <p>15 Q. All right, we are now going to play for you</p> <p>16 a portion of the PX52 which runs from 11 minutes and</p> <p>17 45 seconds into the meeting. So, we will play that</p> <p>18 portion of the tape.</p> <p>19 MR. SHAW: Do you mind if I</p> <p>20 bring the speaker closer?</p> <p>21 MR. ALLINGHAM: Oh, you won't have</p> <p>22 any trouble hearing it. And so the record</p> <p>23 is clear, this is actually a CD which has</p> <p>24 been made from the tapes that were</p> <p style="text-align: center;">30</p>	<p>1 deliberations on the School Board Prayer Policy</p> <p>2 during the clip that I just played you?</p> <p>3 A. Would I agree? Repeat that, please?</p> <p>4 Q. Would you agree that there was no</p> <p>5 opportunity for the public to observe Board</p> <p>6 deliberations on the School Board Prayer Policy</p> <p>7 during the clip that I just played you?</p> <p>8 A. Yes.</p> <p>9 Q. In fact, the public did not have access to</p> <p>10 the text of that policy during the September 28</p> <p>11 meeting, did they?</p> <p>12 A. Not to my knowledge.</p> <p>13 Q. And there is this process of a first and</p> <p>14 second reading for Board policies, but they are not</p> <p>15 actually read out loud, is that correct?</p> <p>16 A. It depends on the individual Board member,</p> <p>17 it depends on the setting, it depends on -- it could</p> <p>18 depend on many things, but it's a line item up for</p> <p>19 discussion, or debate, or to -- for a concern to be</p> <p>20 carried or followed up with at a later date.</p> <p>21 Q. Let me just follow up on that a little bit.</p> <p>22 You said it is a line item that is up for discussion</p> <p>23 or concern or to be followed up with at a later</p> <p>24 date. At the September 28 Board meeting there was</p> <p style="text-align: center;">32</p>

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<p>1 no discussion of the Board policy on School Board 2 prayer, correct? 3 A. Correct. 4 Q. At the September 28, 2004 Board meeting 5 there were no concerns of any kind expressed about 6 the Board policy on School Board prayer, correct? 7 A. Correct. 8 Q. And do you know whether anyone followed up 9 with any discussion or concern of the Board policy 10 on School Board prayer in public at any later date? 11 A. I do not. 12 Q. In your earlier answer to my question about 13 reading, and what does a first reading or a second 14 reading mean, I take it that sometimes proposed 15 policies are in fact read aloud at a Board meeting? 16 A. Yes. 17 Q. Do you know why School Board Prayer Policy 18 was not read out loud? 19 A. No, I don't. 20 Q. Was there any discussion about whether to 21 read School Board Prayer Policy aloud at the 22 September 28 Board meeting? 23 A. I don't recall. 24 Q. We have been told that we have a couple of</p> <p style="text-align: center;">33</p>	<p>1 put in front of you. This is a copy of what we have 2 previously marked as PX11. 3 Do you recall having seen this document 4 before? 5 A. Give me a minute. 6 Q. Sure. On all of these documents Mr. 7 Hastings, take as much time as you want to to read 8 them. 9 A. Okay, again I'm sorry, what was your 10 question? 11 Q. Have you ever seen it before? 12 A. You are taxing my memory. 13 Q. That's my job. 14 A. Honestly, I have to testify I honestly 15 suppose I have, but I honestly can't remember. 16 Q. Fair enough. As you read through PX11 do 17 you recognize it as containing most of the language 18 of the final Board policy as adopted? 19 A. Yes. 20 Q. But there are some differences, correct? 21 Let me see if I can be specific. 22 A. Yeah. 23 Q. The Board policy PX9 begins after the title 24 with the words, "In order to solemnify its</p> <p style="text-align: center;">35</p>
<p>1 minutes left, so let's change the tape. 2 MS. DUPHILY: Going off the 3 record at approximately 10:00 a.m.. 4 (WHEREUPON a brief recess was 5 taken) 6 MS. DUPHILY: Back on the record 7 at approximately 10:07 a.m.. 8 Q. I am going to show you a copy of what's 9 been previously marked as PX9. This is the -- 10 several witnesses have identified this as the 11 official Board policy on School Board prayer. It's 12 titled Board Prayer at Regular Board Meetings. You 13 testified earlier that the Board does not pray to 14 open special Board meetings or separately executive 15 sessions. Did anyone ever suggest that the policy 16 should be extended to all Board meetings rather than 17 merely regular Board meetings? 18 A. Not that I recall. 19 Q. Was that discussed or raised at any time 20 during deliberations, public or private on the 21 School Board Prayer Policy? 22 A. Not that I recall. 23 Q. I am going to show you a couple of what I 24 believe to be drafts of the PX9 policy that I just</p> <p style="text-align: center;">34</p>	<p>1 proceedings," and you'll see that although the 2 concept of solemnifying Board proceedings is 3 reflected in line 3 of the proposed policy marked 4 PX11, the language is a little different, do you see 5 that? 6 A. Yes. 7 Q. In addition, before the concept of 8 solemnifying the proceedings appears in the proposed 9 policy, there is the language, "Following the 10 rulings of the United States Court of Appeals Third 11 Circuit and past practices of State of Delaware 12 legislative bodies, the Indian River Board of 13 Education may choose to solemnify," do you see that? 14 A. Yes. 15 Q. Do you recall any discussion at the Board 16 level of that language, that is following the 17 rulings of the U.S. Court of Appeals Third Circuit 18 and past practices of State of Delaware legislative 19 bodies? Did you discuss that at any time at the 20 Board level? 21 A. I don't recall. 22 Q. Do you know what was referred to by past 23 practices of State of Delaware legislative bodies? 24 A. I would have to answer that question by</p> <p style="text-align: center;">36</p>

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<p>1 A. Yes, that is tradition. 2 Q. Why was that changed in the adoption of the 3 policy? 4 A. To rotating? 5 Q. Yes. 6 A. I don't know specific, but I suspect that 7 was offered in the policy to ensure at that setting 8 regardless of the faith of any Board member that 9 they would have the opportunity to share their 10 prayer at the opening of a regular Board meeting. 11 Q. And to give you an example, if the district 12 elected a Jewish Board member you wanted to make 13 sure that the president didn't just skip over the 14 Jewish Board member every time? 15 A. Correct. 16 Q. Or an atheist Board member, or whatever, 17 correct? 18 A. Correct. 19 Q. Because if an atheist Board member were 20 elected, that Board member might want to say look I 21 don't believe in a higher power, but I do believe in 22 solemnifying our proceedings, and I urge all of you 23 to join me in reminding myself to take seriously my, 24 you know, my oath as a Board member, whatever, yes?</p> <p style="text-align: center;">109</p>	<p>1 Q. I am going to ask you the same question 2 with respect to the Indian River School Board. In 3 order for the School Board to solemnify its 4 proceedings, is it necessary for it to open its 5 meetings with a prayer? Would you give me the same 6 answer, nice but not necessary? 7 A. Nice but not necessary. 8 Q. And let me follow-up on that. In your view 9 why would it be nice? 10 A. Again for the comment I made just a moment 11 ago, with the charge that we have, the 12 responsibilities that we have, we need all the help 13 we can get. So, if that's divine help to guide us 14 and make all the right decisions, because some of 15 the decisions are tough. It's nice to seek that 16 extra help. 17 Q. Fair enough. And in that context, and in 18 the context of the reason why in your view it's nice 19 to do it, you could accomplish that result, that it 20 would be equally nice, if you will, to have the 21 prayer or moment of silence off stage? 22 A. I suppose, yes. 23 Q. Because the prayer is not directed to the 24 public who are sitting out in the audience in front</p> <p style="text-align: center;">111</p>
<p>1 A. Yes. 2 Q. Who is the intended audience of the prayer, 3 the ten Board members who are the ones who have to 4 make the decisions at that Board meeting? 5 A. In my opinion, yes. 6 Q. And so I take it that the intended audience 7 of the prayer is the ten Board members, it would be 8 just as effective for the ten Board members to stand 9 in the wings and have their prayer and then walk 10 onto the stage as it would be for them to walk onto 11 the stage and then have their prayer, correct? 12 A. Correct. 13 Q. Did anybody ever suggest that a policy or 14 practice that would have contemplated that the 15 prayer that would solemnify the proceedings take 16 place before the Board walked out on stage? 17 A. Not to my knowledge. 18 Q. I asked you a question about the State 19 Board of Education, and whether it was necessary for 20 the State Board of Education to have a prayer, to 21 open its meetings with a prayer in order to 22 solemnify its proceedings and you answer was, "Nice 23 but not necessary," do you remember that? 24 A. Yes.</p> <p style="text-align: center;">110</p>	<p>1 of the stage, correct? 2 A. In my opinion, that's correct. 3 Q. Look at PX9 which is the board prayer 4 again. From October 19, 2004, which is when this 5 policy was adopted, until the last meeting that you 6 attended, which -- I'm sorry if I am getting this 7 wrong, which was in December of 2005, correct? 8 A. Yes. 9 Q. Was this rotating basis among each 10 individual Board member observed? That is to say, 11 in practice was the opportunity rotated among each 12 individual Board member? 13 A. The only comment I could make to that would 14 be I may have been asked on one other occasion 15 during that period of time to ask, to give a prayer, 16 but I can't speak to whether or not the president 17 had gone in rotation fashion or asked several of the 18 Board members in rotation to speak. 19 Again, in practice what the Board president 20 usually has done is prior to the meeting, once we 21 arrive is walk up to that individual and ask them, 22 see if they are willing to give the prayer before we 23 begin that evening session. 24 Q. The third paragraph reads, "Such</p> <p style="text-align: center;">112</p>

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<p>1 our students. Peace be unto your prophet Muhammad. 2 Permissible or violative? 3 A. Permissible. 4 Q. Now, in reaching the judgment that you 5 reached on each of those prayers, can you describe 6 for me the way you analyze the problem? How did you 7 reach the judgment that you reached that all three 8 prayers were permissible? 9 A. I commented a moment ago that in my opinion 10 sitting there at the Board we need or we'd like to 11 have all of the help we can get. If there happened 12 to be other Board members at that particular time, a 13 particular time, that were of different faith and 14 they in this rotating basis were asked or offered a 15 prayer, then their prayer of whatever choice would 16 be respected. 17 Q. Can you give me an example or generically a 18 kind of prayer that you would view as violative of 19 paragraph three? 20 A. The only thing that I could share with you, 21 that myself included would probably have difficulty 22 with is and we are speaking of prayer, you are 23 asking about our prayer, but if a prayer or offer 24 for divine guidance to the devil or evil would be</p> <p>117</p>	<p>1 audience. Would you view that prayer as violative 2 of paragraph three? 3 A. Yes. 4 Q. Okay. On the issue of how paragraph three 5 is enforced, I think you mentioned three groups or 6 people who could bring to the attention of the Board 7 the possibility that paragraph three had been 8 violated. The first was the Board members 9 themselves, a sort of self policing mechanism. The 10 second was the superintendent who might bring an 11 issue to the Board and the third was the Board 12 attorney, correct? 13 A. Correct. 14 Q. Just as a practical matter the Board 15 attorney does not attend every meeting, is that 16 right? 17 A. That's correct. 18 Q. In fact, the Board attorney doesn't come 19 unless specifically invited? 20 A. That's correct. 21 Q. To your knowledge has the Indian River 22 School District ever had a Board member who was not 23 a Christian? 24 A. I have no idea. I can't respond to that.</p> <p>119</p>
<p>1 just a little difficult, I suspect. 2 Q. Okay. I am going to give you another 3 example of a prayer and ask you whether you think it 4 would be violative. Suppose that a Board member 5 said, we pray Lord that you enlighten the heathen in 6 our midst and that you inspire them to come to 7 knowledge of your wisdom and goodness. Would that 8 prayer be violative of paragraph three? 9 A. You need to repeat that one more time. 10 Q. We pray Lord that you inspire the heathen 11 in our midst to come to know your goodness and 12 wisdom. That's not identical to what I said, but 13 the idea is we pray that the heathen come to know 14 your wisdom and goodness. 15 Would that prayer be violative of paragraph 16 three? 17 A. I suspect it would be permissible. 18 Q. So, you would not view such a prayer as a 19 prayer that was used to convert anyone? 20 A. No. 21 Q. This one is going to be extreme, but it's 22 to illustrate a point. Suppose that a Board member 23 offered a prayer, Lord, we hope that you will 24 convert to Christianity all the Jews in the</p> <p>118</p>	<p>1 Q. Well, let me turn the question around a 2 little bit. Are you personally aware of any Board 3 member who was not a Christian? 4 A. No, no, I am not. 5 MS. DUPHILY: We are going off the 6 record at approximately 1:03 p.m.. 7 (WHEREUPON a brief recess was 8 taken) 9 MS. DUPHILY: Back on the record 10 at 1:05 p.m.. 11 Q. Are you personally aware of any 12 superintendent of the district who was not 13 Christian? 14 A. No. 15 Q. And to the extent that it matters, are you 16 aware of any school attorney who was not a 17 Christian? 18 A. No. 19 Q. Do you think there is any danger that 20 these, all of these I'll call them enforcement 21 mechanisms, the people who represent the enforcemen 22 mechanisms as Christians would be less sensitive to 23 whether an opportunity is used to proselytize, 24 advance or convert anyone, than might a person of</p> <p>120</p>

EXHIBIT 8

Hattier, Donald (Video) 10/10/2006 9:36:00 AM

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE MONA DOBRICH and MARCO DOBRICH, individually and as parents and next friend of ALEXANDER DOBRICH, SAMANTHA DOBRICH, JANE DOE and JOHN DOE, individually and as parents and next friend of JORDAN DOE and JAMIE DOE, Plaintiffs vs. Civil Action No. 15-120 INDIAN RIVER SCHOOL DISTRICT, ET AL., Defendants DEPOSITION OF DONALD HATTIER, taken at the Indian River School District, 31 Hosler Street, Selbyville, Delaware beginning at 9:36 a.m. on October 10, 2006 before David A. Sroka, Registered Professional Reporter and Notary Public. APPEARANCES: THOMAS ALLINGHAM, ESQUIRE RICHARD HORVATH, ESQUIRE BRIAN LENHARD, ESQUIRE P.O. Box 636 Wilmington, Delaware 19899-0636 For the Plaintiffs WILCOX & FETZER 1330 King Street - Wilmington, DE 19801 (302) 655-0477 www.wilfet.com	MS. DUPHILY: This is the videotape deposition of Dr. Donald G. Hattier taken by the Plaintiff in the matter of Dobrich, et al., versus Indian River School District, et al., case number 15-120. This deposition is taking place at 31 Hosler Boulevard, Selbyville, Delaware. We are going on the record on October 10, 2006 at approximately 9:37 a.m. The court reporter is David Sroka from the firm of Wilcox & Fetzer, Wilmington, Delaware. My name is Lindsay duPhilly I'm the videotape specialist of Discovery Video Services in association with Wilcox & Fetzer. Counsel will now introduce themselves and then the court reporter will swear in the witness. MR. ALLINGHAM: Tom Allingham of Skadden Arps. With me is Rick Horvath and Brian Lenhard also of Skadden Arps, representing the Plaintiffs. MR. GOSSELIN: Jason Gosselin of drinker Biddle & Reath representing the	defendants. DONALD HATTIER, The Witness herein, called for examination by the Plaintiffs, having been duly sworn to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows: MR. ALLINGHAM: Jason, I just want to put a couple of things on the record. The first one is, it is my impression that you are not going to be interrupting this deposition very much, but I want you to know that if you want to make relevance objections feel free. I'm not going to accept invitations to explain the relevance of my questions, I think that they are relevant. Q. Mr. Hattier, I represent the Plaintiffs in this action against the district and I'm going to be asking you some questions. If you don't understand anything that I ask please tell me, don't answer the question. If you do answer it the judge and ultimately even the jury will probably assume that you did understand it, so if you do have a problem with a question cut me off at the pass now, okay?	
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JASON P. GOSSELIN, ESQUIRE Drinker Biddle & Reath LLP One Logan Square Philadelphia, Pennsylvania 19103-6996			

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<p>1 A. 550 Atlantic Avenue in Millville, Delaware.</p> <p>2 Q. I'm speaking financially now, Dr. Hattier,</p> <p>3 how much has this litigation cost you personally?</p> <p>4 A. I don't know.</p> <p>5 Q. Are you aware of any expenses that this</p> <p>6 litigation has caused you to incur?</p> <p>7 A. A general answer would be at various times</p> <p>8 off from work to attend meetings, but my schedule is</p> <p>9 somewhat flexible so again I don't know what to say</p> <p>10 to that.</p> <p>11 Q. How much has this lawsuit cost the</p> <p>12 district?</p> <p>13 A. That's a good question, I don't know.</p> <p>14 Q. Is that a fact that you would consider</p> <p>15 important in weighing the considerations that you</p> <p>16 gave in adopting the School Board Prayer Policy.</p> <p>17 MR. GOSSELIN: Objection, don't</p> <p>18 answer that. That goes beyond the</p> <p>19 discovery order that the judge entered.</p> <p>20 MR. ALLINGHAM: I disagree.</p> <p>21 Q. In considering the adoption of the School</p> <p>22 Board Prayer Policy did you consider the costs of</p> <p>23 litigation that would ensue if the policy were not</p> <p>24 adopted?</p> <p style="text-align: center;">25</p>	<p>1 well stop now.</p> <p>2 MR. ALLINGHAM: My goal in</p> <p>3 suggesting to you that I suspect that</p> <p>4 you and I disagreed about the scope</p> <p>5 of relevance was to urge you to do</p> <p>6 precisely what you suggested you would do,</p> <p>7 which is to lodge an objection without a</p> <p>8 speech and then if you think that the</p> <p>9 questions have become a pattern or practice</p> <p>10 of harassment, which I don't think that</p> <p>11 they will, to take what steps you need to</p> <p>12 take. It's pointless for us to engage in</p> <p>13 speechifying back and forth and I think we</p> <p>14 will go faster if we don't.</p> <p>15 Q. Are you aware of any donations take the</p> <p>16 district, the School Board, or the School Board</p> <p>17 members have received to finance their defense of</p> <p>18 this litigation.</p> <p>19 MR. GOSSELIN: Objection, don't</p> <p>20 answer that.</p> <p>21 Q. You mentioned earlier that you had had</p> <p>22 comments from the public about the School Board's</p> <p>23 position vis a vis this litigation, correct?</p> <p>24 A. Yes, sir.</p> <p style="text-align: center;">27</p>
<p>1 MR. GOSSELIN: Objection, don't</p> <p>2 answer that.</p> <p>3 Q. In considering the School Board Prayer</p> <p>4 Policy and its adoption, did you consider the costs</p> <p>5 that would be avoided if it were not adopted?</p> <p>6 MR. GOSSELIN: Object, same</p> <p>7 instruction.</p> <p>8 Q. Was that a matter of irrelevancy to you?</p> <p>9 MR. GOSSELIN: Objection, don't</p> <p>10 answer it.</p> <p>11 Q. Have you discussed with anyone how the</p> <p>12 School Board or the district will pay it's costs of</p> <p>13 this litigation if the district's insurance carrier</p> <p>14 does not have to pay the legal fees?</p> <p>15 MR. GOSSELIN: Objection, don't</p> <p>16 answer that. Tom, I've got patience, it's</p> <p>17 early in the morning, but we have been here</p> <p>18 for half an hour. I don't mind the</p> <p>19 background, you are entitled to do that,</p> <p>20 but all of these other -- if we are going</p> <p>21 to spend six hours asking questions on</p> <p>22 topics that the judge has already ruled are</p> <p>23 not relevant in this phase of discovery and</p> <p>24 perhaps not relevant at all, we might as</p> <p style="text-align: center;">26</p>	<p>1 Q. And you mentioned that some were in favor</p> <p>2 and I think you said a lesser number were opposed to</p> <p>3 the Board's position generally?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And does it matter to you what your</p> <p>6 constituents think in these areas?</p> <p>7 A. I would say yes it does.</p> <p>8 Q. And tell me what consideration you gave to</p> <p>9 your constituencies' expressed views on the matters</p> <p>10 addressed in this litigation?</p> <p>11 A. I listened to what they had to say on both</p> <p>12 sides of the issue. And ultimately it boils down to</p> <p>13 my own conscience which is what I tend to go with.</p> <p>14 Q. During the course of it consideration and</p> <p>15 adoption of the School Board Prayer Policy, did you</p> <p>16 or your fellow Board members have discussions of</p> <p>17 that issue, that is what impact the views of your</p> <p>18 constituencies should have on your consideration of</p> <p>19 the Board Prayer Policy?</p> <p>20 A. There may have been some general</p> <p>21 discussions regarding that. I believe that the</p> <p>22 generally accepted viewpoint was that this is</p> <p>23 something that folks in our area would strongly</p> <p>24 support.</p> <p style="text-align: center;">28</p>

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<p>1 construction projects have nothing to do with the 2 setting of the Board policy? 3 A. Would you read that again, please? 4 Q. Sure. Just so that you have it in mind, 5 its going to be sequence of Board responsibilities 6 which we've just established in questions and then 7 I'm going to ask you whether you believe, I could 8 ask you individually but will ask you broadly 9 whether you believe that each of those 10 responsibilities does not fall within the Board 11 responsibilities of setting Board policy, okay? 12 Do you have it? 13 A. I have got the big picture. 14 Q. Would you agree with me that buying 15 textbooks, approving the use of district facilities, 16 approving school use applications, approving the 17 school choice applications, punishing students or 18 teachers who violate district policy, hiring or 19 firing districts employees, approving field trips, 20 giving students awards and overseeing or approving 21 construction projects have nothing to do with 22 setting Board policy? 23 MR. GOSSELIN: Objection. 24 A. Yes and no both.</p> <p>141</p>	<p>1 you are trying to draw. Let me ask you this 2 question. In areas, among the areas that I talked 3 to you about, there are instances in which the Board 4 has adopted a policy? 5 A. Uh-hum. 6 Q. Say on what punishments would be applied 7 for violation of performance enhancing drug policy? 8 A. Okay. 9 Q. Okay. Is that an example we can use? 10 A. Again it works, yes sir. 11 Q. And what you were saying when you said yes 12 and no, is that the setting of that policy does 13 involve the Board's policy responsibilities? 14 A. I believe so. 15 Q. Once that policy is in place then the 16 application of the policy and the decisions that 17 need to be made in order to determine where somebody 18 falls in the policy, that kind of determination is 19 not the setting of policy but the execution of the 20 policy? 21 A. Yes, sir. 22 Q. Or the administration of the policy? 23 A. Yes, sir. 24 Q. And so, that was an example along the list</p> <p>143</p>
<p>1 Q. Tell me, elaborate so I can understand? 2 A. That is an easy one for the most part. 3 Maybe not easy, but if you are setting a policy as 4 to what constitutes a student punishment and what 5 doesn't, those are things that get deliberated over 6 quite a bit. There was a time period where we were 7 discussing the types of athletic enhancement drugs 8 that could be allowed. Are we going to go with what 9 the NCAA wants as their list? Did we want to break 10 out from that. It would be set as a matter of 11 policy is what the students can take and what they 12 can't, so that is a matter of policy. 13 Then you have the policy in terms of how 14 would you punish a student for violating that. You 15 know, would you immediately expel a student or do we 16 have a policy where we say, you know what first time 17 anybody can do something, all right let's work with 18 you, let's educate you on what the right way to do 19 it is and then don't do it again. 20 Second time out, okay you have already been 21 instructed, now you've had the details in front of 22 you. Now, if you do it again, now you are subject 23 to some kind of a punishment, that is a policy. 24 Q. I think I understand the distinction that</p> <p>142</p>	<p>1 of things that I gave you. Can we agree that the 2 decisions on buying textbooks does not involve the 3 Board's policy responsibilities? 4 MR. GOSSELIN: Objection. 5 A. I don't have an opinion on that at the 6 moment, sir. And the reason I say that is because 7 if we look at some textbooks from some of the 8 manufactures, some of them have more opinion in them 9 than others. You know, we would want something 10 that would line with what the district policies are 11 in terms of how we want the education to go. So, I 12 don't know that I could answer that yes or no. 13 Q. Okay. In all events we can agree that the 14 School Board does administer and enforce whatever 15 policies it adopts? 16 MR. GOSSELIN: Objection. 17 A. That is correct. 18 MR. ALLINGHAM: Hattier Exhibit 9, 19 please. 20 (WHEREUPON Hattier Exhibit 9 was 21 marked for identification) 22 Q. Okay. 23 A. Okay. 24 Q. You've seen this paper before, correct?</p> <p>144</p>

EXHIBIT 9

Helms, Reginald (Video) 10/11/2006 3:32:00 PM

<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF DELAWARE 3 4 MONA DOBRICH and MARCO DOBRICH, individually and 5 As parents and next friend of ALEXANDER DOBRICH, 6 SAMANTHA DOBRICH, JANE DOE and JOHN DOE, 7 individually and as parents and next friend of 8 JORDAN DOE and JAMIE DOE, 9 Plaintiffs 10 vs. Civil Action 11 No. 15-120 12 INDIAN RIVER SCHOOL DISTRICT, ET AL., 13 Defendants 14 15 DEPOSITION OF REGINALD HELMS, taken 16 pursuant to notice at the Indian River School 17 District, 31 Hosler Street, Selbyville, Delaware, 18 beginning at 3:32 p.m. on October 11, 2006 before 19 David A. Sroka, Registered Professional Reporter and 20 Notary Public. 21 22 APPEARANCES: 23 THOMAS ALLINGHAM, ESQUIRE 24 RICHARD HORVATH, ESQUIRE BRIAN LENHARD, ESQUIRE P.O. Box 636 Wilmington, Delaware 19899-0636 For the Plaintiffs WILCOX & FETZER 1330 King Street - Wilmington, DE 19801 (302) 655-0477 www.wilfet.com</p>	<p>1 MS. DUPHILY: This is the 2 videotape deposition of Reggie Helms. This 3 deposition is being taken on behalf of the 4 Plaintiff in the matter of Dobrich, et al. 5 versus Indian River School Board, et al, 6 case number 15-120. The deposition is 7 being held at 31 Hosler Boulevard, 8 Selbyville, Delaware. We are going on the 9 record on October 11, 2006 at approximately 10 3:32 p.m. 11 The court reporter is David Sroka 12 with Wilcox & Fetzer, Wilmington, Delaware. 13 my name is Lindsay duPhily and I am the 14 videotape specialist with Discovery Video 15 Services. 16 Counsel will now introduce 17 themselves and then the court reporter will 18 swear in the witness. 19 MR. ALLINGHAM: I'm Tom Allingham 20 for the Plaintiffs and with me are Richard 21 Horvath and Brian Lenhard. 22 MR. GOSSELIN: Jason Gosselin for 23 Indian River School District and the Indian 24 River School Board and the individual board</p>
<p>1 2 3 JASON P. GOSSELIN, ESQ. 4 JARROD D. SHAW, ESQ. 5 Drinker Biddle & Reath LLP 6 One Logan Square 7 Philadelphia, Pennsylvania 19103-6996 8 For the Defendants 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p>1 member in attendance. 2 REGINALD HELMS, 3 The Witness herein, called for examination by 4 the Plaintiff, having been duly sworn to tell the 5 truth, the whole truth, and nothing but the truth, 6 was examined and testified as follows: 7 EXAMINATION BY MR. ALLINGHAM: 8 Q. I've put before you the top document is 9 Plaintiff's Exhibit 30. Would you turn to the last 10 page of that exhibit, please? 11 In the second column from the right -- I 12 should give you some background. This is an article 13 from Delaware Beach Life, have you ever read it 14 before? 15 A. No. 16 Q. There is a picture of you on the front 17 page, is that correct? 18 A. That's me. 19 Q. Not the best picture of all time? 20 A. Well -- 21 Q. In the second column from the right there 22 is a quotation from the Reverend Jerry Fike, do you 23 know who Mr. Fike is? 24 A. Yes.</p>

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<p>1 Q. Is he a minister in Sussex County?</p> <p>2 A. To the best of my knowledge, yes.</p> <p>3 Q. He offered the commencement prayer in 2004</p> <p>4 at Indian River High School?</p> <p>5 A. As I understand it, yes, but I wasn't</p> <p>6 present but that's what I heard.</p> <p>7 Q. Did you have any involvement in inviting</p> <p>8 Jerry Fike to give that prayer?</p> <p>9 A. No.</p> <p>10 MR. GOSSELIN: Objection,</p> <p>11 don't answer that. Same thing, we are</p> <p>12 sticking to the issues that are properly in</p> <p>13 the case right now.</p> <p>14 Q. Mr. Fike is quoted as saying in this</p> <p>15 article, and I'm looking now about half way down</p> <p>16 that second column from the right, "My loyalty is to</p> <p>17 Jesus Christ, foremost, even if that takes me to</p> <p>18 prison or to death. He is the predicted Messiah.</p> <p>19 He rose again and I believe that he knew what he was</p> <p>20 talking about. And if he is the Messiah, then all</p> <p>21 religions are not equal. There are no alternatives</p> <p>22 to Christianity."</p> <p>23 Do you agree with that sentiment?</p> <p>24 MR. GOSSELIN: Objection.</p> <p>5</p>	<p>1 Q. Would you tell me what portions of it you</p> <p>2 do not agree with?</p> <p>3 A. The things when he says there are no</p> <p>4 alternatives, all religions are not equal. I don't</p> <p>5 know if these are things that I would say, but he's</p> <p>6 entitled to his opinion, and if that's what he</p> <p>7 believes then that's fine.</p> <p>8 Q. I agree with you that he is entitled to his</p> <p>9 opinion. I also think that you are entitled to your</p> <p>10 opinion. My question was directed to precisely what</p> <p>11 your opinion is. Do you believe that all religions</p> <p>12 are equal?</p> <p>13 A. Well, it depends on like I said all</p> <p>14 religions equal, probably not, but it depends on</p> <p>15 what context, and I don't know what he was -- I</p> <p>16 don't know what he was meaning there.</p> <p>17 Q. Do you believe that the only true religion</p> <p>18 is Christianity?</p> <p>19 A. I believe that as I read the scriptures</p> <p>20 that when it says no one comes to the Father except</p> <p>21 by the Son, I believe that. Am I saying that</p> <p>22 Christianity is the only religion and that sort of</p> <p>23 thing, I wouldn't go that far. But I do believe</p> <p>24 when I read the scriptures it says no one comes to</p> <p>7</p>
<p>1 I'm not going to instruct him not to</p> <p>2 answer, but I'm letting you know that I</p> <p>3 think this is outside the topic of</p> <p>4 discussion, and if we are going to spend</p> <p>5 the afternoon asking Mr. Helms what his</p> <p>6 beliefs are I would appreciate it if</p> <p>7 you'd tell me now because I will call</p> <p>8 Judge Farnan.</p> <p>9 But I'm not going to instruct him</p> <p>10 not to answer this.</p> <p>11 MR. ALLINGHAM: I'm working hard to</p> <p>12 get this deposition done in accordance with</p> <p>13 your request. If you make speeches it will</p> <p>14 be harder.</p> <p>15 Q. Do want me to reread the question again,</p> <p>16 Mr. Helms?</p> <p>17 A. Yes, please.</p> <p>18 Q. All right, I don't think I need to read the</p> <p>19 quote, do I?</p> <p>20 A. No.</p> <p>21 Q. My question is do you agree with the</p> <p>22 sentiments expressed by the Reverend Fike in that</p> <p>23 quotation?</p> <p>24 A. Not in its entirety.</p> <p>6</p>	<p>1 the Father except through the Son, that's what I</p> <p>2 believe.</p> <p>3 Q. Do you have any problem or disagreement or</p> <p>4 concern about the accuracy of the statement, "The</p> <p>5 only true religion is Christianity?"</p> <p>6 A. It would not be a statement that I would</p> <p>7 make, so it depends on where a person is coming from</p> <p>8 when he makes that statement, and I can't put myself</p> <p>9 into their mind. It wouldn't be a statement that I</p> <p>10 would make.</p> <p>11 Q. What efforts, if any -- let me give some</p> <p>12 context. There was a meeting of the Board of</p> <p>13 Education of the Indian River School District on</p> <p>14 August 24, 2004, do you recall that meeting?</p> <p>15 A. I know there was a meeting, I don't know if</p> <p>16 I can recall specifics, but yeah.</p> <p>17 Q. Let me identify that meeting as the meeting</p> <p>18 at which estimates range in attendance from 600 to</p> <p>19 800 people?</p> <p>20 A. Yes, I do.</p> <p>21 Q. You recall that meeting?</p> <p>22 A. Yes, I do.</p> <p>23 Q. What effort, if any, did you make to ensure</p> <p>24 there would be a large turnout for that meeting?</p> <p>8</p>

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<p>1 religion, and that type of thing. A lot of people 2 were talking about that issue at that time. 3 Q. And did you understand that what people 4 were all -- what people considered important was 5 whether School Board members could pray before the 6 School Board meeting? 7 A. I don't recall thinking of it specifically 8 that way about praying before a Board meeting, no. 9 Q. Did it seem to you that the public comments 10 at the Board meeting had as much to do with prayer 11 in the schools as they did prayer before a School 12 Board meeting? 13 A. Yes. 14 Q. Did you think that represented a 15 misunderstanding on the part of the public as to 16 what was before the Board at that meeting? 17 A. Yes. 18 Q. And what efforts were made to correct that 19 misunderstanding? 20 A. Well, on my part I didn't know it was a 21 misunderstanding until that night. So, I don't know 22 of anything that was done to prevent it because 23 quite frankly I didn't know it was a 24 misunderstanding until people started getting up at</p> <p style="text-align: center;">13</p>	<p>1 prayer at school related functions outside of the 2 school day, is that a fair description? 3 A. Well, in my words, in my thoughts I would 4 say it was prayer in general that had anything to do 5 with banquets, graduation, that type of thing, and 6 some of that could have been part of the school day 7 and some of it might not have been. But I didn't 8 think it was an issue of whether the students could 9 open the day with prayer or that sort of thing. 10 I mean that issue in my mind had been 11 settled by the courts and I didn't think we were 12 there to discuss that. So, when people started 13 coming up to the podium and talking about that I 14 thought well, they obviously misunderstood what's 15 going on. 16 Q. Where do you think that misunderstanding 17 came from? 18 A. I have no idea. 19 Q. What efforts did the Board make to correct 20 that misunderstanding? 21 A. I don't recall anything specifically being 22 done as far as the Board is concerned. I'm not sure 23 whether Mrs. Hobbs took any action or not. I think 24 there was some discussion, although I can't recall</p> <p style="text-align: center;">15</p>
<p>1 the podium talking. 2 Q. That is to say until people started talking 3 you thought people understood that this was a School 4 Board prayer issue? 5 A. No. I didn't think it was a School Board 6 prayer issue, I thought it was more along the lines 7 of prayer before graduation, and that sort of thing. 8 More so than the Board prayer issue. 9 Q. Have you ever had occasion to -- strike 10 that. 11 How did you form the view that you thought 12 what was being talked about at the August 24th 13 meeting was graduation prayer rather than School 14 Board prayer? 15 A. Well, as I recall it was a matter of 16 prayer. I didn't in my own mind I didn't separate 17 it between prayer before graduation or that sort of 18 thing as specifically to the School Board meeting. 19 I thought it was prayer in general, but not prayer 20 in school, but prayer before any graduation or that 21 sort of thing. I didn't, I didn't separate the two 22 in my mind. 23 Q. So, as you walked into the August 24th 24 meeting you thought what was being discussed was</p> <p style="text-align: center;">14</p>	<p>1 any specifics about an executive session where we 2 thought some people had misunderstood. 3 I don't know what specific actions were 4 taken. 5 Q. Did you think given the clear 6 misunderstanding that it was important for the Board 7 to correct that misunderstanding? 8 A. I don't recall -- I don't recall myself 9 making a statement like we must clear up this 10 misunderstanding. I do know it was brought up, but 11 I don't recall saying anything specifically where we 12 need to make sure we clear up this misunderstanding. 13 Q. Now, when you say I know it was brought up, 14 does that mean the notion that people had 15 misunderstood what was before the Board was brought 16 up? 17 A. In the executive session I think there was 18 some mention of there is some people here tonight 19 that I think misunderstood what was going on. I 20 don't recall who said that, but I do recall it being 21 said. 22 Q. Were you present throughout the public 23 comment session at the August 24 meeting? 24 A. Yes.</p> <p style="text-align: center;">16</p>

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<p>1 trying to take away your right publicly to pray, 2 correct? 3 A. Yes, I think towards the end of October, 4 fist of September somewhere in there. I thought it 5 was becoming very obvious that now we've sort of 6 gone prayer before graduation as the issue that now 7 it was like all encumbersome, if you will, it's 8 prayer by anything, and even to the point where they 9 didn't want, these parties didn't want the Board to 10 pray before a meeting. I -- that was probably later 11 on in the discussion when that became apparent to 12 me. 13 Q. And before I move to another question, when 14 you say there were some people that were trying to 15 take that privilege away from me, who were those 16 people, was that me, was it -- who was it? 17 A. I see that as Mrs. Dobrich at that time I 18 believe -- well, I know at some point in time she 19 had contacted the ACLU, or ACLU had contacted her or 20 whatever, but the ACLU became involved and some 21 things started being said, and I had the -- in my 22 mind it was the ACLU coming on Board was now trying 23 to take away my privilege of praying before a Board 24 meeting, and whether that's what Mrs. Dobrich</p> <p>149</p>	<p>1 altogether. We don't want any public prayer 2 anywhere in the Indian River School District. That 3 was my thought. 4 So at that time I thought that I was going 5 to lose my right and my privilege to express prayer 6 at a Board meeting and I became concerned about 7 that. I didn't have to clarify after we had 8 received word from our attorneys -- 9 MR. SHAW: Can I caution the 10 witness not to discuss what he 11 spoke about with his attorney. 12 A. Okay. It became apparent that our policy 13 in regards to graduation and the prayer was not in 14 accordance with what it should have been. 15 Q. Yes, sir. 16 A. At that point in time I said well let's 17 make it right, whatever the law says then that's 18 what I want to do. We are Board members we are 19 supposed to be law abiding citizens, if that's the 20 law then that's what we need to do. 21 However, as time went on it became apparent 22 that that was no longer the subject, the prime 23 concern now it was going into all aspects of prayer 24 throughout all the district and I thought I was</p> <p>151</p>
<p>1 wanted, I don't know, but when the ACLU became 2 involved I think to me it became apparent that 3 everything was going to be taken away. 4 That's the way I felt. So, when I say the 5 parties I'm talking about Mrs. Dobrich and the ACLU. 6 Q. Okay, so when you say there were some 7 people that were trying to take that privilege away 8 from me, some people in your mind was Mrs. Dobrich 9 and the ACLU? 10 A. Yes. 11 Q. And in your previous answer you said when 12 the ACLU became involved it became clear that they 13 were trying to take everything away, what did you 14 mean by everything away? 15 A. Everything would be they didn't want us to 16 have prayer at athletic banquets, they didn't want 17 us to have prayer at School Board meetings. I can't 18 recall exactly what was said, but I believe in my 19 mind, and my memory is not as good as some other 20 people, but in my mind I was thinking that someone 21 even made the statement, and I don't know who it 22 was, I don't know if it was somebody from the ACLU 23 or whether was Mrs. Dobrich, but in my mind I felt 24 that someone was saying we want prayer out</p> <p>150</p>	<p>1 going to lose my right to express my prayer in 2 whatever way I wanted. 3 As a matter of fact, I even heard, and once 4 again I can't recall who said it, but someone even 5 said that as long as we prayed to God that was fine, 6 but they didn't want us to use Jesus' name. 7 Well, okay I just felt I was going to lose my right 8 to pray the way I felt I wanted to pray. 9 And so all those things came to light as I 10 recall it the start of fall or maybe the end of 11 summer, but it wasn't in the beginning. In the 12 beginning I thought it was just a prayer issue at 13 graduation. 14 Q. Did you understand that anyone was trying 15 to take away your right to pray publicly in any way 16 you saw fit at any place except at the School Board 17 meetings where you were functioning as a School 18 Board member? 19 A. As I recall the only discussions were about 20 the Indian River School District. They didn't say 21 they wanted to take away my right to pray in church, 22 no they didn't say that. The discussions were only 23 around the school district. 24 Q. I wasn't being, at least I wasn't trying to</p> <p>152</p>

EXHIBIT 10

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<p>1</p> <p>FOR THE DISTRICT OF DELAWARE</p> <p>MONA DOBRICH and MARCO) DOBRICH, individually and) as parents and next friend) of ALEXANDER DOBRICH,) SAMANTHA DOBRICH, JANE DOE) Civil Action and JOHN DOE, individually) Number 15-120 (JJF) and as parents and next) friend of JORDAN DOE and) JAMIE DOE,)) Plaintiffs,)) v.)) INDIAN RIVER SCHOOL) DISTRICT, et al.,)) Defendants.)</p> <p>Videotape deposition of LOIS HOBBS, taken pursuant to notice at 31 Hoosier Street, Selbyville, Delaware, beginning at 9:12 a.m., on October 24, 2006, before Julie H. Parrack, Registered Merit Reporter, Certified Realtime Reporter and Notary Public.</p> <p>APPEARANCES:</p> <p>THOMAS ALLINGHAM, ESQUIRE BRIAN G. LENHARD, ESQUIRE One Rodney Square Wilmington, Delaware 19801 On behalf of Plaintiffs</p> <p>WILCOX & FETZER 1330 King Street - Wilmington, Delaware 19801 (302) 655-0477 www.wilfet.com</p>	<p>3</p> <p>1 defendants.</p> <p>2 LOIS HOBBS,</p> <p>3 the deponent herein, having first been duly</p> <p>4 sworn on oath, was examined and testified as</p> <p>5 follows:</p> <p>6 BY MR. ALLINGHAM:</p> <p>7 Q. Mrs. Hobbs, Ms. Hobbs, which do you prefer?</p> <p>8 A. Miss, Miss Hobbs.</p> <p>9 Q. Miss Hobbs, sorry. Have you ever been deposed</p> <p>10 before?</p> <p>11 A. Yes.</p> <p>12 Q. All right, so you know the process. I'm going</p> <p>13 to ask you some questions. You are -- unless your</p> <p>14 counsel instructs you not to answer, you're obligated</p> <p>15 to answer those questions to the best of your ability.</p> <p>16 I'm almost world renowned for asking questions that</p> <p>17 are sometimes confusing. Please tell me if you find a</p> <p>18 question confusing or ambiguous, and I will do my best</p> <p>19 to fix it. Don't answer a question that you don't</p> <p>20 feel like you understand.</p> <p>21 A. Okay.</p> <p>22 Q. You need to answer, although we have a</p> <p>23 videographer here, you still need to answer out loud;</p> <p>24 that is to say, so that the court reporter can take</p>
<p>2</p> <p>1 APPEARANCES (CONT'D):</p> <p>2 JASON P. GOSSELIN, ESQUIRE DRINKER, BIDDLE & REATH, LLP 3 One Logan Square 18th and Cherry Streets 4 Philadelphia, Pennsylvania 19103-6996 On behalf of Defendants</p> <p>5</p> <p>ALSO PRESENT: TIMOTHY KEARNS</p> <p>6 LINDSAY DuPHILY, VIDEOGRAPHER 7 -----</p> <p>8 THE VIDEOGRAPHER: This is the videotape 9 deposition of Ms. Lois Hobbs taken by the Plaintiff in 10 the matter of Dobrich, et al., versus Indian River 11 School District, et al., Civil Action No. 15-120. The 12 deposition is being held at 31 Hoosier Street, 13 Selbyville, Delaware, on October 24th, 2006. We are 14 going on the record at approximately 9:12 a.m.</p> <p>15 The court reporter is Julie Parrack from 16 the firm of Wilcox & Fetzer, Wilmington, Delaware. My 17 name is Lindsay DuPhily, and I am the videotape 18 specialist of Discovery Video Services.</p> <p>19 Counsel will now introduce themselves, and 20 then the court reporter will swear in the witness.</p> <p>21 MR. ALLINGHAM: My name is Tom Allingham. 22 I represent the plaintiffs. Along with me is Brian 23 Lenhard and Tim Kearns.</p> <p>24 MR. GOSSELIN: Jason Gosselin for the</p>	<p>4</p> <p>1 down your answer and there's no ambiguity in what your</p> <p>2 answer is. Nods and "um-hums" can be misinterpreted.</p> <p>3 A. All right.</p> <p>4 Q. I understand that you have a previous</p> <p>5 commitment and that you need to stop at 1:00 this</p> <p>6 afternoon, correct?</p> <p>7 A. At 1:30 at the latest.</p> <p>8 Q. Okay. I think what we'll do then is stop for</p> <p>9 lunch at 1:00. You can take care of your obligations</p> <p>10 and if we need to resume thereafter, we will.</p> <p>11 Is there any -- are you suffering from any</p> <p>12 condition that would prevent you from giving</p> <p>13 comprehensive and truthful answers to my questions</p> <p>14 today?</p> <p>15 A. No.</p> <p>16 Q. Or taking any medications that might prohibit</p> <p>17 you from doing that?</p> <p>18 A. No, I took a Benadryl, but I don't think that</p> <p>19 will prohibit.</p> <p>20 Q. All right, your full name is what?</p> <p>21 A. Lois Margaret Hobbs.</p> <p>22 Q. And what is your address?</p> <p>23 A. It is 3 Brighton Street, Ocean View, Delaware.</p> <p>24 Q. Are you currently employed?</p>

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<p>1 the bottom?</p> <p>2 A. They're posted after the Board approves them.</p> <p>3 Q. So they should be identical?</p> <p>4 A. Yeah.</p> <p>5 Q. You have to answer orally.</p> <p>6 A. Yes.</p> <p>7 Q. Okay. In your 10 years or so here in Indian</p> <p>8 River, did you ever invite people to the Board</p> <p>9 meetings?</p> <p>10 A. I invited children who won an award or teachers</p> <p>11 who wrote a grant to be recognized if they wanted to</p> <p>12 come.</p> <p>13 Q. And with respect to the children who won an</p> <p>14 award, was it typical that you -- and I'm talking now</p> <p>15 about the academic school year board meetings, was it</p> <p>16 typical that children were invited to receive awards</p> <p>17 or to get recognition?</p> <p>18 A. What would happen, because you can't keep track</p> <p>19 of the whole district, the principal, if they felt</p> <p>20 that a child had received an honor, somewhere else in</p> <p>21 the district or outside of the district, and they</p> <p>22 should be recognized at the Board meeting, they either</p> <p>23 called my office and said they should be recognized,</p> <p>24 or we then later had a form that they could fill out</p> <p style="text-align: center;">33</p>	<p>1 had made contributions to the district because I think</p> <p>2 they should be recognized. I think that's a part of a</p> <p>3 community, that we say great job and thank you. Some</p> <p>4 of our teachers had written grants for 5 and \$6,000,</p> <p>5 and I thought they should be thanked publicly.</p> <p>6 Q. How does that grant process work? Do teachers</p> <p>7 have to get authorization from the district, from you</p> <p>8 or from someone at the district before they submit the</p> <p>9 grant application?</p> <p>10 A. Actually, they can write the grant. MBNA, who</p> <p>11 is no longer in business, or in business with us, I</p> <p>12 should say, offered teachers grants. And they could</p> <p>13 apply to MBNA for the grants. And that's where we got</p> <p>14 most of our grant money. And so they could do it</p> <p>15 directly and could ask for help from the district if</p> <p>16 they needed it, to write the grant or ideas for the</p> <p>17 grant.</p> <p>18 Q. I take it from your earlier answer that you</p> <p>19 thought that the district benefited directly or</p> <p>20 indirectly from recognizing teachers who had</p> <p>21 successfully applied for grants.</p> <p>22 A. I just wanted to say thank you to people.</p> <p>23 Q. And what I was trying to get at was, as a</p> <p>24 manager, as superintendent, you believed that the</p> <p style="text-align: center;">35</p>
<p>1 so we wouldn't miss children if they would be</p> <p>2 recognized, or should be recognized. And they were</p> <p>3 recognized for, you know, athletics, for academics,</p> <p>4 for outside poster contests, anything usually at the</p> <p>5 state or national level.</p> <p>6 Q. And this was not intended to be restricted to</p> <p>7 athletics, I take it?</p> <p>8 A. No.</p> <p>9 Q. Would it be fair to say that the hope was to</p> <p>10 cast a net broad enough to encompass all areas of</p> <p>11 achievement that the students might participate in?</p> <p>12 A. Anything that was at the state or national</p> <p>13 level that a student participated in, to recognize</p> <p>14 them and say thank you for, you know, trying that or</p> <p>15 doing that.</p> <p>16 Q. There's been some testimony from other</p> <p>17 witnesses that you might have been instrumental in</p> <p>18 expanding this practice of trying to recognize</p> <p>19 achievements by the students. Is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Tell me why you did that. Well, first</p> <p>22 of all, tell me what changes you implemented in that</p> <p>23 area.</p> <p>24 A. I invited people who, children or adults who</p> <p style="text-align: center;">34</p>	<p>1 district would benefit by a practice of thanking</p> <p>2 people for achievements on behalf of the district,</p> <p>3 correct?</p> <p>4 A. Yes, I think that's fair.</p> <p>5 Q. Okay. And then coming over to the, to the</p> <p>6 recognition of the children, what benefit did you</p> <p>7 think that the district would achieve by recognizing</p> <p>8 achievements of children within the district?</p> <p>9 A. The children are what we're all about. So I</p> <p>10 wanted to say thank you and recognize the children.</p> <p>11 Q. Did you think the children would benefit from</p> <p>12 that recognition?</p> <p>13 A. I did. I think the parents enjoyed the fact</p> <p>14 that they were recognized, and normally, in the past</p> <p>15 few years I sent them a congratulatory letter with a</p> <p>16 picture of them standing in front of the Board.</p> <p>17 Q. Oh, really?</p> <p>18 A. Um-hum.</p> <p>19 Q. And I guess that was to memorialize the</p> <p>20 recognition?</p> <p>21 A. Well, I don't know. I'm a first grade teacher</p> <p>22 at heart.</p> <p>23 Q. What does that mean?</p> <p>24 A. That I like recognizing children. I think it's</p> <p style="text-align: center;">36</p>

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1 position; isn't that right?

2 A. I believe that the atmosphere of the cafeteria,

3 many of them didn't understand what they were saying.

4 They were talking about school prayer. They weren't

5 even talking about the issue. And they were hostile,

6 yes.

7 Q. Do you recall that there were state

8 representatives at the August 24th meeting who spoke?

9 A. Yes, there were some state representatives.

10 Q. Did you know in advance of the meeting that

11 those state representatives would be speaking?

12 A. I'm not sure they told us in advance that they

13 would be speaking. Sometimes they come just to show

14 up to support an issue and don't say anything.

15 Q. Did you think it was odd that elected officials

16 would come and speak in support of School Board

17 prayer?

18 A. These elected officials are very involved in

19 their community, and if they believe that the Board is

20 a legislative body, I would imagine they felt they had

21 a right to say something, as they're legislators in,

22 and the community's feelings at the time.

23 Q. Do you recall that the state representatives

24 had a letter that they read into the record?

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1 A. I do recall they had a letter.

2 Q. Did you notice that in that letter they seemed

3 to have advance notice of the prayer that would be

4 offered at that meeting?

5 A. I don't recall that.

6 Q. I'm going to show you a document which has not

7 been marked for identification. It bears Bates Nos. P

8 1614, P 1615. It is -- it bears the name of a member

9 of the Doe family. And I have masked that name out

10 consistently when I've asked deponents about this

11 document.

12 A. Okay.

13 MR. GOSSELIN: Do you have an extra copy

14 of that?

15 MR. ALLINGHAM: Yes. I have an extra --

16 I'm not marking it. I have an extra copy which I can

17 give you if you'll give it back to me.

18 MR. GOSSELIN: Yeah.

19 BY MR. ALLINGHAM:

20 Q. Take as much time as you need, Miss Hobbs, to

21 read the document. My first question to you, I can

22 tell you, is going to be whether you've seen it before

23 or not.

24 Have you finished reading it?

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1 A. Yes, um-hum.

2 Q. Have you seen that document before?

3 A. I may have seen it. I really am not sure.

4 Q. You're not sure?

5 A. No.

6 Q. Do you recall having received --

7 A. A copy of this?

8 Q. -- a complaint about the religious climate at

9 Selbyville Middle School and the School Board's

10 current position on matters of religion?

11 A. I believe I, we received a complaint about the

12 Bible Club at Selbyville Middle School. And I'm not

13 sure whether it was tied up in the case or if it was

14 before the case, but...

15 Q. Do you recall from whom you received that

16 complaint?

17 A. I believe it was really from the case when the

18 Does started in the case, Selbyville was their thing.

19 Q. Dr. Hattier testified that you brought this

20 letter to his attention.

21 A. I may have. If he said so.

22 Q. Would you agree with me that the complaints

23 expressed in this letter are heartfelt?

24 A. Yes.

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1 Q. And these are matters that as superintendent

2 you would take seriously. Am I right about that?

3 A. I wouldn't want anyone to be discriminated

4 against. I would take them seriously.

5 Q. Would you tell me, other than bringing it to

6 the attention of Dr. Hattier, what you did in response

7 to this complaint?

8 A. Well, we found -- if we found out that there

9 was a Bible Club and it was led by a teacher, it

10 wasn't to be led by a teacher, if a student wanted to

11 lead the Bible Club. But there was some

12 misconception, I believe, that children were let out

13 early just for Bible Club to get in the lunch line

14 first. That's a complaint I had heard. And all of

15 the clubs were let out in Selbyville if they had a

16 club to go to at lunchtime. So whether it was Bible

17 Club or Soccer Club or whatever club it was. So that

18 was one of the things.

19 Q. It sounds to me, Miss Hobbs, as though, and I'm

20 reading between the lines here, that you did

21 investigate the complaints in this letter, or caused

22 to be investigated the complaints in this letter.

23 A. Whether they were in this letter or not, when I

24 heard about the Bible Club, I looked into what the

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1 Bible Club was doing.
 2 Q. And what did you find out?
 3 MR. GOSSELIN: Objection. Is this, does
 4 this make its way back around to Board prayer?
 5 MR. ALLINGHAM: Yes. And if you'd like to
 6 go off the record and walk out in the hall with me,
 7 I'll explain my reasons for asking these questions.
 8 But I would also note that Dr. Hattier answered these
 9 questions without objection, and that I think that I'm
 10 entitled to test the answers that were given by one
 11 witness with questions to another witness.
 12 But in addition to that, which I think is
 13 a good reason for asking them, I think that they do
 14 link back to School Board prayer as well.
 15 MR. GOSSELIN: We don't need to go back
 16 out in the hall. If you're bringing it back around to
 17 Board prayer, that's fine with me.
 18 BY MR. ALLINGHAM:
 19 Q. What did you do in response to the complaints
 20 in this letter?
 21 A. The teachers were told that they were not to be
 22 leaders of a Bible Club, that they could be there as
 23 chaperones so people, you know, children wouldn't hurt
 24 themselves or whatever else might happen. But they

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1 shouldn't lead the Bible Club. And right after that,
 2 we had no teacher leaders of the Bible Club at
 3 Selbyville. So I don't know at what time frame that
 4 happened. But --
 5 Q. Did you receive more than one complaint about
 6 Bible clubs?
 7 A. Not that I recall. I didn't receive -- it
 8 either came up with the case or this letter was part
 9 of it. But...
 10 Q. Well, this is clearly, this letter is clearly a
 11 complaint, among other things, about Bible clubs,
 12 correct?
 13 A. Right, right.
 14 Q. And you only recall one complaint about Bible
 15 clubs?
 16 A. Right, at Selbyville.
 17 Q. I'm going to ask you to assume that that
 18 complaint came in around the 1st of October 2004,
 19 which is the date of this letter. And I gathered from
 20 your previous answer that you did cause to be
 21 investigated some or all of the complaints in this
 22 letter. Did you do that investigation or did you ask
 23 someone else to do it?
 24 A. I asked the principal of the school to look

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1 into this.
 2 Q. And the principal of the school in this case is
 3 Mr. Kline?
 4 A. Yes.
 5 Q. I asked you earlier questions about the general
 6 approach to complaints from district residents or
 7 parents. Did you follow that approach in this case?
 8 A. Usually I -- either the principal of the school
 9 investigates it or someone from my office investigates
 10 it.
 11 Q. And I presume that if you asked someone else to
 12 do it, you asked for them to report back to you?
 13 A. To share their findings.
 14 Q. Okay. And tell me, I gather that Mr. Kline
 15 reported to you that there was a Bible club being led
 16 by a teacher, correct?
 17 A. That there were Bible clubs, I believe three of
 18 them.
 19 Q. Three Bible clubs being led by teachers?
 20 A. Two teachers and a secretary, as I recall.
 21 Q. Okay. All at the Selbyville Middle School?
 22 A. Yes.
 23 Q. Okay. Did Mr. -- did you ask Mr. Kline also to
 24 investigate the allegation that a counselor at the

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1 school pressured a child to attend the Bible Club?
 2 A. I can't say that I did, because I am not sure
 3 that I had a copy of this letter. I don't recall it.
 4 Q. Do you know who the Doe family is?
 5 A. I believe I do.
 6 Q. Do you recall getting a complaint from the Doe
 7 family on the matters set forth in this letter?
 8 A. No, I don't.
 9 Q. Do you have an affirmative memory that there
 10 was no inquiry made into Ms. Redard's, the allegation
 11 that Ms. Redard put pressure on a child to attend the
 12 Bible Club?
 13 A. I don't recall that at all.
 14 Q. Do you recall affirmatively that you never saw
 15 this letter?
 16 A. I'm sorry, I can't say either way at this
 17 point.
 18 Q. When a complaint comes in from a parent, do you
 19 open a file on that complaint?
 20 A. Sometimes. Most of the time, yes, we do. And
 21 it seems like I would have had a file on this one.
 22 It's a pretty serious letter.
 23 Q. Did you search your files in your garage to see
 24 whether you have a copy of this letter?

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